

**EXHIBIT 4 to the Declaration Of Laura W. Sawyer In Support Of Debtors' Motion For  
An Order Excluding The Testimony Of Daniel Curry And Jeffrey Hasterok**

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
Chapter 11  
CASE NO. 08-13555 (JMP)  
Jointly Administered

IN RE: LEHMAN BROTHERS  
HOLDINGS, INC. et al.  
  
Debtors,

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DEPOSITION OF DANIEL CURRY

TRANSCRIPT of the stenographic  
notes of the proceedings in the  
above-entitled matter, as taken by and  
before TAB PREWETT, a Registered  
Professional Reporter, a Certified  
Shorthand Reporter, a Certified LiveNote  
Reporter, and Notary Public, held at the  
offices of JONES DAY, 222 East 41st Street,  
New York, New York, on Friday, January 17,  
2014, commencing at 10:00 a.m.

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<p>1 Daniel Curry</p> <p>2 matter and this European bank matter; is</p> <p>3 that correct?</p> <p>4 A Correct.</p> <p>5 Q Okay. In the European bank</p> <p>6 matter, did you prepare an expert report?</p> <p>7 A I did.</p> <p>8 Q And was that submitted in a</p> <p>9 court proceeding or other type of</p> <p>10 proceeding somewhere?</p> <p>11 A It was, I believe.</p> <p>12 Q So can you give us some details</p> <p>13 on that?</p> <p>14 A It was just a dispute. It was</p> <p>15 a dispute between UniCredit Bank and</p> <p>16 Woodlands, Texas. And the dispute revolved</p> <p>17 around a reserve fund, not a forward</p> <p>18 purchase agreement reserve fund.</p> <p>19 Q And where was that matter</p> <p>20 pending?</p> <p>21 A Texas.</p> <p>22 Q Okay. So you submitted a</p> <p>23 report. Did you testify in that matter?</p> <p>24 A No.</p> <p>25 Q Have you ever testified before</p>	<p>1 Daniel Curry</p> <p>2 a description of the types of financial</p> <p>3 matters with which you had experience with</p> <p>4 your previous employers?</p> <p>5 A I mean, starting in 1990, I was</p> <p>6 an analyst in the public finance department</p> <p>7 of Bear Stearns. And that entailed working</p> <p>8 on proposals and bond deals for municipal</p> <p>9 issuers, so I did that for a little over</p> <p>10 two years, I believe.</p> <p>11 And from there I went to Alex</p> <p>12 Brown down in Baltimore as an associate in</p> <p>13 their public finance department. And,</p> <p>14 again, that work revolved around</p> <p>15 structuring bond issues, responding to</p> <p>16 requests for proposals, handling some of</p> <p>17 the reinvestment contracts for Alex Brown's</p> <p>18 municipal clients, some swap and derivative</p> <p>19 transactions that were entered into by Alex</p> <p>20 Brown's municipal clients.</p> <p>21 And from there, I went to a</p> <p>22 place called TMG financial products, which</p> <p>23 was in Greenwich, Connecticut. And that</p> <p>24 was a derivatives trading and structuring</p> <p>25 subsidiary of a Canadian insurance company.</p>
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<p>1 Daniel Curry</p> <p>2 today?</p> <p>3 A I was deposed once. I have not</p> <p>4 testified.</p> <p>5 Q Okay. All right. So the only</p> <p>6 sworn testimony you have given in any</p> <p>7 matter of any kind prior to today was a</p> <p>8 deposition?</p> <p>9 A Correct.</p> <p>10 Q Okay. And what matter was that</p> <p>11 deposition in?</p> <p>12 A That was a -- I believe it</p> <p>13 was -- it was quite some time ago. It was</p> <p>14 somewhere between 15, 18 years ago. And I</p> <p>15 believe it was an SEC matter between --</p> <p>16 with Alex Brown.</p> <p>17 Q Have you been involved either</p> <p>18 as a witness or as a party in any other</p> <p>19 regulatory proceedings?</p> <p>20 A No.</p> <p>21 Q Any proceedings before FINRA or</p> <p>22 NASD regulations?</p> <p>23 A No.</p> <p>24 Q Before you joined Morgan</p> <p>25 Stanley in 1998, if you could give us just</p>	<p>1 Daniel Curry</p> <p>2 And my work there revolved</p> <p>3 around doing interest rate hedges and</p> <p>4 reinvestment products for municipal</p> <p>5 issuers, and non-profits such as health</p> <p>6 care providers and universities and that</p> <p>7 type of thing.</p> <p>8 That -- that company closed.</p> <p>9 The parent company went and basically sold</p> <p>10 off the trading books.</p> <p>11 And from there, I was a -- I</p> <p>12 was a volunteer at the American Red Cross</p> <p>13 here in New York, basically, implementing</p> <p>14 some or creating some -- well, creating</p> <p>15 some -- acting as a consultant reviewing</p> <p>16 some of their operations and then</p> <p>17 implementing the results of the consulting</p> <p>18 agreement, just in terms of, you know,</p> <p>19 where they were going to provide services</p> <p>20 and the services -- the type of services</p> <p>21 that they would provide out of their</p> <p>22 various centers.</p> <p>23 I did that for approximately a</p> <p>24 year. And then I got hired at Morgan</p> <p>25 Stanley as an associate in their public</p>

3 (Pages 6 to 9)

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<p>1 Daniel Curry</p> <p>2 finance department, which involved</p> <p>3 structuring bond deals, working on</p> <p>4 reinvestment type needs of the public</p> <p>5 finance clients, implementation of interest</p> <p>6 rate hedges and swaps, that type of thing,</p> <p>7 but on the banking side, on the issuer side</p> <p>8 of the market.</p> <p>9 Then from there I went back out</p> <p>10 to the trading desk, and I worked on the</p> <p>11 tender option bond area, which is a way</p> <p>12 that owners of municipal bonds can finance</p> <p>13 their inventory.</p> <p>14 And that role kind of morphed</p> <p>15 into a more generalized role in the</p> <p>16 municipal capital markets area, which had</p> <p>17 some to do with owning tax-exempt bonds,</p> <p>18 working with the traders to manage</p> <p>19 positions that I was not a -- we had -- I</p> <p>20 was not a trader.</p> <p>21 I was really more of a</p> <p>22 structurer although I did have some trading</p> <p>23 responsibilities. But it was more along</p> <p>24 the lines of, you know, managing the firm's</p> <p>25 exposures, managing the firm's risks,</p>	<p>1 Daniel Curry</p> <p>2 transactions?</p> <p>3 A It depended on what the</p> <p>4 long-dated transaction was.</p> <p>5 Q Okay. So if it was a</p> <p>6 derivative transaction?</p> <p>7 A If it was a derivative</p> <p>8 transaction that you were entering into and</p> <p>9 you could hedge, you would use forward --</p> <p>10 forward rates.</p> <p>11 Q And that's what you did?</p> <p>12 A On those types of transactions,</p> <p>13 yes.</p> <p>14 Q Did you use forward curves to</p> <p>15 manage Morgan Stanley's risk in its bond</p> <p>16 portfolio?</p> <p>17 A Um-hum.</p> <p>18 Q Yes?</p> <p>19 A Can you repeat your question,</p> <p>20 please.</p> <p>21 Q Sure. Did you use forward</p> <p>22 curves to manage Morgan Stanley's risk in</p> <p>23 its bond portfolio?</p> <p>24 A We didn't use forward curves to</p> <p>25 manage risk.</p>
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<p>1 Daniel Curry</p> <p>2 managing a portfolio of bonds that we had</p> <p>3 as hedges and on a proprietary basis.</p> <p>4 And then post-financial crisis</p> <p>5 or during the financial crisis, I worked on</p> <p>6 a lot of work-out transactions. So we had</p> <p>7 acquired lots of bonds and had positions</p> <p>8 that kind of came up or exposures that we</p> <p>9 hadn't realized that we had through other</p> <p>10 positions, and working on solutions to</p> <p>11 mitigate losses and re-hedge positions,</p> <p>12 that type of thing.</p> <p>13 Q You describe in the expert</p> <p>14 report that you have 20 years of experience</p> <p>15 in multiple facets of municipal finance?</p> <p>16 A Correct.</p> <p>17 Q In your 20 years of experience</p> <p>18 in multiple facets of municipal finance, is</p> <p>19 it fair to say that you routinely used all</p> <p>20 sorts of forward curves for structuring,</p> <p>21 pricing, and transacting?</p> <p>22 A In some circumstances, yes.</p> <p>23 Q Well, it's more than some;</p> <p>24 isn't it, sir? Isn't that commonly what</p> <p>25 you used for pricing long-dated</p>	<p>1 Daniel Curry</p> <p>2 Q What else do you use forward</p> <p>3 curves for other than for some derivatives</p> <p>4 transactions?</p> <p>5 A Where you would use a forward</p> <p>6 curve in a derivative transaction is to</p> <p>7 price your hedges. So you don't use</p> <p>8 forward curves to manage risk. You use the</p> <p>9 result of a forward curve, or you use a</p> <p>10 hedgable transaction that's priced off of</p> <p>11 a forward curve to enter into a hedge that</p> <p>12 would manage your risk.</p> <p>13 Q Did you use forward curves in</p> <p>14 structuring forward purchase agreements?</p> <p>15 A We would use forward curves to</p> <p>16 price hedges that we would enter into to</p> <p>17 manage forward purchase agreements.</p> <p>18 Q Okay. So describe generally</p> <p>19 for me your experience throughout your</p> <p>20 20-year career with forward purchase</p> <p>21 agreements?</p> <p>22 MR. LAWRENCE: Object to the</p> <p>23 form. You can answer.</p> <p>24 A Can you repeat the question,</p> <p>25 please.</p>

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<p>1 Daniel Curry</p> <p>2 Q Sure.</p> <p>3 Describe generally for me your</p> <p>4 experience throughout your 20-year career</p> <p>5 with forward purchase agreements?</p> <p>6 A I transacted and structured</p> <p>7 forward purchase agreements during my</p> <p>8 employment at TMG Financial Products. We</p> <p>9 engaged in several types of structures</p> <p>10 there or several types of funds. We did</p> <p>11 forward purchase agreements for</p> <p>12 construction funds.</p> <p>13 We did forward purchase</p> <p>14 agreements for debt service funds in</p> <p>15 this -- in the case where issuers had debt</p> <p>16 service funds. That's a fund that is</p> <p>17 usually only applicable to revenue bond</p> <p>18 issuers and maybe some health care type</p> <p>19 issuers.</p> <p>20 And we did reserve fund forward</p> <p>21 purchase agreements for issuers that had</p> <p>22 debt service reserve funds.</p> <p>23 So my experience dates back to</p> <p>24 that.</p> <p>25 My experience at Morgan</p>	<p>1 Daniel Curry</p> <p>2 Q At Morgan Stanley, did Morgan</p> <p>3 Stanley enter into reserve fund agreements</p> <p>4 of the type at issue in this case?</p> <p>5 A For tobacco issuers.</p> <p>6 Q For tobacco issuers?</p> <p>7 A That is -- we did.</p> <p>8 Q And I understand from your</p> <p>9 prior answer you had some involvement with</p> <p>10 some of those tobacco reserve fund</p> <p>11 agreements or forward purchase agreements,</p> <p>12 but you were not the principal transactor</p> <p>13 on behalf of Morgan Stanley on those</p> <p>14 agreements; is that fair?</p> <p>15 A For a tobacco transaction, I</p> <p>16 would have been involved. I would say that</p> <p>17 there -- there was a principal point of</p> <p>18 contact in -- you could also say perhaps a</p> <p>19 team leader.</p> <p>20 But a tobacco transaction would</p> <p>21 be something that would probably have a</p> <p>22 little bit more input from a variety of</p> <p>23 people than a typical -- I am -- and by</p> <p>24 "typical," I mean, a water and sewer or</p> <p>25 something like that type forward purchase</p>
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<p>1 Daniel Curry</p> <p>2 Stanley, as it relates to forward purchase</p> <p>3 agreements, would have been to basically</p> <p>4 help manage the product after we had</p> <p>5 already -- well, I would look at</p> <p>6 transactions as we were doing transactions,</p> <p>7 maybe opine on structure.</p> <p>8 But I would say that my role</p> <p>9 was primarily in dealing with those</p> <p>10 transactions after they were on our books,</p> <p>11 so helping to manage the risk that those</p> <p>12 trades basically placed on the firm.</p> <p>13 Q Would you include in your</p> <p>14 description of forward purchase agreements</p> <p>15 agreements of the type at issue in this</p> <p>16 case, a reserve fund agreement?</p> <p>17 A I did look at these types of</p> <p>18 reserve fund agreements.</p> <p>19 Q When you were at TMG, I guess</p> <p>20 there wasn't a Tobacco Settlement Fund</p> <p>21 then?</p> <p>22 A There was not.</p> <p>23 Q So you had dealt with other</p> <p>24 types of forward purchase agreements?</p> <p>25 A Correct.</p>	<p>1 Daniel Curry</p> <p>2 agreement.</p> <p>3 Q Were you the team leader for</p> <p>4 the tobacco transaction?</p> <p>5 A No.</p> <p>6 Q Do you know who at Morgan</p> <p>7 Stanley served as a team leader during the</p> <p>8 period 2002 through 2009?</p> <p>9 A It would -- if I were to</p> <p>10 nominate a person, I would say that it was</p> <p>11 probably Kevin Schwartz, who was one of the</p> <p>12 marketing people who was in charge of</p> <p>13 marketing; or the other person might have</p> <p>14 been Fabrice Pilato, who was my boss, who</p> <p>15 was the trader who managed the book.</p> <p>16 And I would say it was actually</p> <p>17 a little bit more of a joint effort between</p> <p>18 the two to be honest.</p> <p>19 Q Okay. Was there a -- was</p> <p>20 there, in fact, a tobacco team at Morgan</p> <p>21 Stanley?</p> <p>22 A No.</p> <p>23 Q You said on tobacco</p> <p>24 transactions there would be involvement</p> <p>25 from other people.</p>



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<p>1 Daniel Curry</p> <p>2 A Correct.</p> <p>3 Q And since you weren't the team</p> <p>4 leader, I assume you -- the role you played</p> <p>5 was you were involved; you were one of the</p> <p>6 people involved in the tobacco transactions</p> <p>7 in some way?</p> <p>8 A That is correct.</p> <p>9 Q Okay. So in what way were you</p> <p>10 involved in the tobacco transactions done</p> <p>11 by Morgan Stanley?</p> <p>12 A As we were pre-trade, I would</p> <p>13 be involved in having discussions with our</p> <p>14 credit department. Our legal department, I</p> <p>15 would be a party to those conversations or</p> <p>16 conference calls or that type of thing.</p> <p>17 I would be in contact with our</p> <p>18 risk management people to discuss the trade</p> <p>19 and the risk that it presented.</p> <p>20 And pre-trade, I would say that</p> <p>21 that would be my involvement in the</p> <p>22 transactions.</p> <p>23 Q Okay. And then post-trade?</p> <p>24 A Post-trade, I would be involved</p> <p>25 in having discussions if there were any</p>	<p>1 Daniel Curry</p> <p>2 preliminary modeling and review of the</p> <p>3 settlement to see if it was bondable, for</p> <p>4 lack of a better term, but, again, just</p> <p>5 some of the original modeling.</p> <p>6 I believe that was really</p> <p>7 before any -- it was shortly after the</p> <p>8 settlement itself or, you know, shortly</p> <p>9 after the first -- you know, one or two</p> <p>10 payments may have been made. But I believe</p> <p>11 it was before any deals themselves were</p> <p>12 transacted.</p> <p>13 Q Okay. Anything else other than</p> <p>14 that?</p> <p>15 A Not that I recall.</p> <p>16 Q Did Morgan Stanley go on to be</p> <p>17 one of the underwriters for tobacco bond</p> <p>18 issuances from time to time?</p> <p>19 A I don't believe they were --</p> <p>20 well, I was going to say I don't -- I</p> <p>21 believe they were an underwriter on one or</p> <p>22 two, I believe, relatively small</p> <p>23 transactions. I can't recall them by name.</p> <p>24 They were likely a co-manager on other</p> <p>25 tobacco bond deals.</p>
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<p>1 Daniel Curry</p> <p>2 developments in the market. I would be</p> <p>3 involved in looking at different</p> <p>4 deliverables. If there were capital or</p> <p>5 funding issues that were presented due to</p> <p>6 the exposure, I would be somebody who would</p> <p>7 be involved.</p> <p>8 Q Just on that last point,</p> <p>9 capital funding issues for Morgan Stanley?</p> <p>10 A Correct.</p> <p>11 Q All right. So, now, you have</p> <p>12 described both the pre-trade involvement</p> <p>13 and the post-trade involvement. Can you</p> <p>14 think of any other ways in which, while you</p> <p>15 were at Morgan Stanley, you were involved</p> <p>16 with the Morgan Stanley tobacco trades?</p> <p>17 A Tobacco FPA trades or tobacco</p> <p>18 bond trades or --</p> <p>19 Q Tobacco FPA trades.</p> <p>20 A No, I don't recall.</p> <p>21 Q And what was your involvement</p> <p>22 in tobacco bond trades?</p> <p>23 A When the tobacco settlement was</p> <p>24 originally enacted or shortly thereafter, I</p> <p>25 had been involved in some of the very, very</p>	<p>1 Daniel Curry</p> <p>2 Q And moving back to tobacco FPAs</p> <p>3 or RFAs, how many such transactions did</p> <p>4 Morgan Stanley do?</p> <p>5 A I am bound by a confidentiality</p> <p>6 agreement, but, if you go and you look at</p> <p>7 tobacco bond deals, it is publicly</p> <p>8 available where they are a reserve fund</p> <p>9 provider.</p> <p>10 And I would -- it's probably</p> <p>11 somewhere between -- I can't give you an</p> <p>12 exact number. I believe it's between four</p> <p>13 and six, maybe as high as seven or eight.</p> <p>14 But I believe it's somewhere between four</p> <p>15 and six.</p> <p>16 Q Okay. And just so I understand</p> <p>17 your answer correctly, whatever that number</p> <p>18 is, somewhere between four at one end and</p> <p>19 maybe eight at the other end, those are</p> <p>20 cases where Morgan Stanley was involved in</p> <p>21 a bond deal or in a tobacco FPA deal?</p> <p>22 A In an FPA transaction.</p> <p>23 Q Okay. FPA transaction.</p> <p>24 A In an FPA transaction.</p> <p>25 Q So, again, going back to your</p>

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<p>1 Daniel Curry</p> <p>2 involvement with tobacco FPA deals, that</p> <p>3 involvement would have been with respect to</p> <p>4 those four to eight tobacco FPA deals?</p> <p>5 A Pre-trade, you know,</p> <p>6 particularly for some of these smaller</p> <p>7 earlier deals, I probably was not involved.</p> <p>8 As we did a few more transactions, I would</p> <p>9 be a little more -- I would be more</p> <p>10 involved in the pre-trade aspect.</p> <p>11 And post-trade, it's a</p> <p>12 portfolio, so it's not -- if you're</p> <p>13 involved in one, you are involved in all is</p> <p>14 basically the way to think about it.</p> <p>15 Q So on the pre-trade side, just</p> <p>16 take me -- walk through what your</p> <p>17 involvement was. I think you identified</p> <p>18 you interacted with the credit department.</p> <p>19 You interacted with legal. You were in</p> <p>20 conference calls, and you were involved in</p> <p>21 risk management. Anything else you can</p> <p>22 think of?</p> <p>23 A Not offhand. No.</p> <p>24 Q Do any of those tasks involve</p> <p>25 the price at which Morgan Stanley is going</p>	<p>1 Daniel Curry</p> <p>2 going to be is going to inform Morgan</p> <p>3 Stanley as to what price, what fixed rate</p> <p>4 it wants -- it can enter the trade into?</p> <p>5 A That would be one input into</p> <p>6 the terms -- into the fixed rate that we</p> <p>7 would use.</p> <p>8 Q Okay. Did Morgan Stanley ever</p> <p>9 derive a price or a tobacco FPA without</p> <p>10 using a forward curve?</p> <p>11 A As we were offering a fixed</p> <p>12 rate and we needed to hedge, we would have</p> <p>13 had to have looked at a forward curve in</p> <p>14 order to price the hedges that we would</p> <p>15 have entered into in order to pay the fixed</p> <p>16 rate.</p> <p>17 Q Okay. Now, you were aware,</p> <p>18 when you were at Morgan Stanley, that the</p> <p>19 forward curve is not a crystal ball,</p> <p>20 correct?</p> <p>21 A That is correct.</p> <p>22 Q You knew that the forward curve</p> <p>23 changes from day-to-day, correct?</p> <p>24 A That is correct.</p> <p>25 Q But when Morgan Stanley was</p>
Page 23	Page 25
<p>1 Daniel Curry</p> <p>2 to transact with the counterparty?</p> <p>3 A There would be discussions</p> <p>4 around potential prices, potential hedging,</p> <p>5 and specifics around a particular deal and</p> <p>6 the risks that that particular deal may</p> <p>7 have relative to other deals that we may</p> <p>8 have looked at.</p> <p>9 Q And when I talk about the</p> <p>10 pricing of a tobacco FPA, I am talking</p> <p>11 about the fixed rate that Morgan Stanley is</p> <p>12 going to sign up for as part of that FPA.</p> <p>13 Do you understand that?</p> <p>14 A That would be the -- that would</p> <p>15 be part of the discussion.</p> <p>16 Q Okay. And in deciding what</p> <p>17 that rate would be, what that fixed rate</p> <p>18 would be, Morgan Stanley would use forward</p> <p>19 curves, correct?</p> <p>20 A Morgan Stanley would use</p> <p>21 forward curves to price the hedges that</p> <p>22 they would use in order to be able to pay a</p> <p>23 fixed rate on those trades.</p> <p>24 Q Okay. So knowing what the</p> <p>25 forward curves are and what the hedges are</p>	<p>1 Daniel Curry</p> <p>2 committing to enter into a transaction at a</p> <p>3 particular price, that decision was based</p> <p>4 in part on its reliance on the forward</p> <p>5 curve and the "hedgability" of the risk,</p> <p>6 right?</p> <p>7 A The forward curve would</p> <p>8 determine the price at which two parties</p> <p>9 could hedge. We would enter into hedges.</p> <p>10 And the fact that we have locked in hedges,</p> <p>11 or as locked in as they could be, we could</p> <p>12 pay a fixed rate.</p> <p>13 So we weren't reliant on the</p> <p>14 forward curve. We were reliant on the</p> <p>15 hedge that was derived from the forward</p> <p>16 curve.</p> <p>17 Q And, in fact, you referred to</p> <p>18 the phrase "locked in." On the day that</p> <p>19 you entered into your tobacco FPA, you</p> <p>20 would recognize a P&amp;L event upon the</p> <p>21 execution of that trade, correct?</p> <p>22 A That is correct.</p> <p>23 Q That P&amp;L event was based on</p> <p>24 your valuation of your obligations under</p> <p>25 the tobacco FPA offset by whatever benefits</p>



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<p>1 Daniel Curry</p> <p>2 you got from the hedge, correct?</p> <p>3 A Correct. Less any reserves</p> <p>4 that we would have had to take in</p> <p>5 relationship to that specific trade.</p> <p>6 Q Okay. So the modeling that was</p> <p>7 done and the calculations that were done to</p> <p>8 come up with what the appropriate hedge</p> <p>9 would be and what the price would be that</p> <p>10 you would enter the trade into as Morgan</p> <p>11 Stanley, did you do that work?</p> <p>12 A I did not.</p> <p>13 Q Someone else on the tobacco</p> <p>14 team did that?</p> <p>15 A That would usually be the -- a</p> <p>16 combination of the marketing person and the</p> <p>17 traders each modeling the transaction to</p> <p>18 determine where they thought the hedge</p> <p>19 would trade, in consultation with our</p> <p>20 credit department, to determine the cost of</p> <p>21 any credit hedging that they needed to put</p> <p>22 in place, less -- I am trying to think back</p> <p>23 in time when things -- when different</p> <p>24 things implemented.</p> <p>25 But, you know, likely, you had</p>	<p>1 Daniel Curry</p> <p>2 wanted to place on the different items.</p> <p>3 Q Okay. I am just trying to</p> <p>4 figure out what this discussion involved.</p> <p>5 So you are sitting down with the CVA desk</p> <p>6 and the credit people. They are</p> <p>7 determining the value that they want to</p> <p>8 place on the different items.</p> <p>9 So they are making that</p> <p>10 determination, correct?</p> <p>11 A They are making that</p> <p>12 determination with input from people like</p> <p>13 myself --</p> <p>14 Q Okay.</p> <p>15 A -- in terms of saying:</p> <p>16 "Okay. This is how this trade</p> <p>17 works. These are where we believe the</p> <p>18 risks are. This is where the transaction</p> <p>19 may speed up. This is where it may slow</p> <p>20 down."</p> <p>21 These are all things that would</p> <p>22 go into valuing the trade and evaluating</p> <p>23 the risks of the specific trade.</p> <p>24 Q And you provided that input to</p> <p>25 the credit and CVA people?</p>
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<p>1 Daniel Curry</p> <p>2 a CVA desk, a credit valuation desk, which</p> <p>3 did some Treasury functions, determining</p> <p>4 reserves and things that costs that needed</p> <p>5 to be assigned to the transaction. And all</p> <p>6 of that would affect the price that we</p> <p>7 were -- or the rate that we were willing to</p> <p>8 pay.</p> <p>9 Q Did you have any involvement in</p> <p>10 determining what those charges would be,</p> <p>11 what the CVA charges would be, what the</p> <p>12 credit reserves would be, et cetera?</p> <p>13 A Are you asking if I determined</p> <p>14 the price?</p> <p>15 Q Yes.</p> <p>16 A I did not determine the price.</p> <p>17 Q Okay. So then let me step back</p> <p>18 from that. If you didn't determine the</p> <p>19 price, did you have an involvement in</p> <p>20 determining what the price would be on</p> <p>21 the -- on the quantitative side?</p> <p>22 A My involvement would have been</p> <p>23 to sit down with the CVA desk, the credit</p> <p>24 people to discuss the transaction, so that</p> <p>25 they could determine the value that they</p>	<p>1 Daniel Curry</p> <p>2 A They would -- and the risk</p> <p>3 management people. Yes.</p> <p>4 Q And what was your understanding</p> <p>5 of what the credit risks were to Morgan</p> <p>6 Stanley of entering into a tobacco FPA?</p> <p>7 A You know, the -- first, you</p> <p>8 have to understand the tobacco settlement</p> <p>9 itself. And you would need to look at the</p> <p>10 things that would potentially affect</p> <p>11 payment or prepayment of these trades.</p> <p>12 So these trades are subject to</p> <p>13 a variety of -- what's the word I'm looking</p> <p>14 for?</p> <p>15 There are several provisions in</p> <p>16 the document that could lead to potential</p> <p>17 decreases in the amount that are paid</p> <p>18 through the settlement. So those would</p> <p>19 have to be explained.</p> <p>20 To the extent that there were</p> <p>21 materials or analysis that we could do to,</p> <p>22 you know, look at the potential for changes</p> <p>23 in those payments, I would be -- I would be</p> <p>24 involved there and have discussions with</p> <p>25 the Treasury people.</p>

<p style="text-align: right;">Page 30</p> <p>1 Daniel Curry</p> <p>2 With that, we would have</p> <p>3 discussions:</p> <p>4 "Okay. Well, are there places</p> <p>5 where a speeding up of a payment or a</p> <p>6 slowdown of the payment might be beneficial</p> <p>7 to us," and weigh that versus the -- where</p> <p>8 those could not go in our favor.</p> <p>9 So those are the types of</p> <p>10 inputs that I would -- that I would have</p> <p>11 with credit and risk and potentially legal.</p> <p>12 And then we would also have to</p> <p>13 assess this -- you know, this trade versus</p> <p>14 other types of trades that we would have</p> <p>15 entered into.</p> <p>16 Q Would you do any kind of</p> <p>17 analysis to determine what Morgan Stanley's</p> <p>18 exposure would be to the counterparty on</p> <p>19 the FPA trade?</p> <p>20 A I would have input in the</p> <p>21 discussions where we calculated the</p> <p>22 exposure. Would I -- would I have run the</p> <p>23 model myself? Most likely not.</p> <p>24 Q And was an analysis of the</p> <p>25 exposure one of the things that you looked</p>	<p style="text-align: right;">Page 32</p> <p>1 Daniel Curry</p> <p>2 Q All right. You mentioned a</p> <p>3 couple of concepts. I want to make sure I</p> <p>4 understand it.</p> <p>5 Are you suggesting that there</p> <p>6 is a -- that it was your view that there</p> <p>7 was a correlation between interest rates</p> <p>8 and tobacco revenue?</p> <p>9 A No.</p> <p>10 Q So let's just separate those</p> <p>11 two things out.</p> <p>12 A With one exception, there is an</p> <p>13 inflation adjustment in the tobacco</p> <p>14 settlement.</p> <p>15 Q Putting the inflation</p> <p>16 adjustment aside, just in terms of changes</p> <p>17 in real interest rates, there is no</p> <p>18 correlation between changes in real</p> <p>19 interest rates and tobacco revenues,</p> <p>20 correct?</p> <p>21 A Not that I'm aware of.</p> <p>22 Q So let's focus on that then.</p> <p>23 You have exposure when interest</p> <p>24 rates go up and you are paying a fixed</p> <p>25 interest rate because you are more likely</p>
<p style="text-align: right;">Page 31</p> <p>1 Daniel Curry</p> <p>2 at in determining what the credit charge</p> <p>3 would be?</p> <p>4 A Yes.</p> <p>5 Q And just so you and I are on</p> <p>6 the same page, when you talk about</p> <p>7 "exposure on tobacco FPA," what do you</p> <p>8 understand "exposure on tobacco FPA" to</p> <p>9 mean?</p> <p>10 A So our exposure on those cases</p> <p>11 would be, we would have hedges in place.</p> <p>12 And if the tobacco transaction didn't</p> <p>13 perform as we expected, we had the</p> <p>14 potential that we would need to unwind our</p> <p>15 hedges. Our hedges would not perform as</p> <p>16 expected.</p> <p>17 And those things expose us to</p> <p>18 risk. So to the extent that we were paying</p> <p>19 a fixed rate and interest rates went up and</p> <p>20 tobacco revenue slowed or accelerated, you</p> <p>21 know, otherwise, performed not in the</p> <p>22 expected fashion, we potentially had the</p> <p>23 exposure of the need to unwind our</p> <p>24 transaction in that type of interest rate</p> <p>25 environment.</p>	<p style="text-align: right;">Page 33</p> <p>1 Daniel Curry</p> <p>2 to be in a mark-to-market in-the-money</p> <p>3 position on that trade, correct?</p> <p>4 A Correct.</p> <p>5 Q And in that position, if the</p> <p>6 counterparty were to default and not pay,</p> <p>7 you have exposure?</p> <p>8 A Correct.</p> <p>9 Q You also said you worked with</p> <p>10 the legal department pre-trade side?</p> <p>11 A We -- sorry. We had an</p> <p>12 exposure really to -- regardless of -- from</p> <p>13 a mark-to-market standpoint, you know --</p> <p>14 let me step back.</p> <p>15 From a mark -- we always have</p> <p>16 an exposure to the client. You would have</p> <p>17 a mark-to-market exposure on those</p> <p>18 particular hedges if rates were higher.</p> <p>19 But regardless of whether the</p> <p>20 rates were higher or lower, you know, there</p> <p>21 are exposures in terms of just the ongoing</p> <p>22 deliveries. If you have entered into some</p> <p>23 sort of hedge to try to hedge some of your</p> <p>24 deliverables, you would have an exposure</p> <p>25 regardless of what the market is, not</p>

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<p>1 Daniel Curry</p> <p>2 necessarily an interest rate exposure.</p> <p>3 Q Right. What I am trying to</p> <p>4 isolate is your exposure to the risk of</p> <p>5 non-performance by a tobacco counterparty,</p> <p>6 not your exposure on the hedge.</p> <p>7 A Okay.</p> <p>8 Q You might treat those as the</p> <p>9 same. But I am focused on the risk of</p> <p>10 non-performance by a tobacco counterparty.</p> <p>11 A Um-hum.</p> <p>12 Q And you have that risk of</p> <p>13 non-performance by the counterparty where</p> <p>14 you are in an interest rate environment</p> <p>15 where prevailing interest rates are higher</p> <p>16 than the fixed rate that you have agreed to</p> <p>17 in the FPA, correct?</p> <p>18 A Um-hum, correct.</p> <p>19 Q Okay. So, now, let's go back</p> <p>20 to the legal -- your involvement with the</p> <p>21 legal group on the pre-trade side because</p> <p>22 that was one of the other categories that</p> <p>23 you mentioned.</p> <p>24 A Okay.</p> <p>25 Q What did you do with the legal</p>	<p>1 Daniel Curry</p> <p>2 to any of the FPA documents themselves. I</p> <p>3 may have. But I don't recall.</p> <p>4 Q Okay. And you have probably</p> <p>5 looked at a lot of documents in your</p> <p>6 20 years in municipal finance.</p> <p>7 Do you consider yourself to be</p> <p>8 an expert on the application of deal</p> <p>9 documents in the industry?</p> <p>10 MR. LAWRENCE: Object.</p> <p>11 A Yes.</p> <p>12 MR. LAWRENCE: Object to the</p> <p>13 form. Go ahead.</p> <p>14 A Yes.</p> <p>15 Q So just to understand it, are</p> <p>16 you providing any opinions in this case</p> <p>17 where you are opining on the legal</p> <p>18 application of the terms of the Washington</p> <p>19 TSA RFA?</p> <p>20 A I'm sorry. Can you repeat</p> <p>21 that, please.</p> <p>22 MR. TAMBE: Please read that</p> <p>23 back.</p> <p>24 (Reporter read back pending</p> <p>25 question.)</p>
Page 35	Page 37
<p>1 Daniel Curry</p> <p>2 group, again, generally, not specific</p> <p>3 advice or questions on specific deals; but,</p> <p>4 generally, what was your involvement?</p> <p>5 A Well, we would talk about the</p> <p>6 specifics of the individual trade. Not all</p> <p>7 reserve funds were the same. Their primary</p> <p>8 source of payment was the same, but the</p> <p>9 individual bond documents would have been</p> <p>10 different.</p> <p>11 How they structured their</p> <p>12 reserve fund would have been different.</p> <p>13 How they structured their bond deals would</p> <p>14 have been different, particularly, if you</p> <p>15 go through different vintages.</p> <p>16 Q And were you providing input on</p> <p>17 the wording of the FPA agreements, or were</p> <p>18 you talking -- were you describing to the</p> <p>19 legal department the fundamentals of the</p> <p>20 bond deal and the FPA transaction or</p> <p>21 something else?</p> <p>22 A The latter, the fundamentals of</p> <p>23 the bond deal and the FPA transaction. I</p> <p>24 do not recall -- I don't recall, actually,</p> <p>25 specifically commenting on adding something</p>	<p>1 Daniel Curry</p> <p>2 A I don't know that I can apply</p> <p>3 to the legal terms because I am not a</p> <p>4 lawyer. I can look at the terms from a</p> <p>5 business standpoint and make a judgment or</p> <p>6 offer an opinion as to the structure of the</p> <p>7 transaction, but not from a legal</p> <p>8 standpoint.</p> <p>9 Q And to the extent that there</p> <p>10 are particular provisions of the Washington</p> <p>11 TSA RFA that you used in coming up with</p> <p>12 your valuation report, have you identified</p> <p>13 those in the expert report?</p> <p>14 A I believe we have the primary</p> <p>15 one that I would -- I would point out. And</p> <p>16 I can't tell you exactly what page -- oh,</p> <p>17 here we go.</p> <p>18 The par call or the termination</p> <p>19 payment on the mandatory clean-up.</p> <p>20 Q What page is that of your</p> <p>21 report?</p> <p>22 A It's on page four in the -- I</p> <p>23 believe we discuss a little bit in more</p> <p>24 detail in the transaction itself.</p> <p>25 But the termination payment on</p>

10 (Pages 34 to 37)

Page 38	Page 40
<p>1 Daniel Curry</p> <p>2 mandatory clean-up redemption par note</p> <p>3 termination --</p> <p>4 Q Slow down a little bit.</p> <p>5 A So "termination payment on</p> <p>6 mandatory clean-up redemption." That's in</p> <p>7 one column.</p> <p>8 And then the column to the</p> <p>9 right, it says "par," and then parens, or</p> <p>10 open parens, "no termination amount due to</p> <p>11 from" -- sorry -- "slash from either party</p> <p>12 closed parens."</p> <p>13 That's not a -- I would say</p> <p>14 it's not necessarily a standard provision.</p> <p>15 Q So, again, I just want to make</p> <p>16 sure I understand your answer.</p> <p>17 One of the things I am asking</p> <p>18 you to do -- the question I had asked you</p> <p>19 was, have you identified in your report the</p> <p>20 provisions of the agreement that were</p> <p>21 relevant to your valuation report.</p> <p>22 You have drawn my attention to</p> <p>23 this one. I assume -- are there others?</p> <p>24 A The deliverables themselves,</p> <p>25 you know, particularly commercial paper,</p>	<p>1 Daniel Curry</p> <p>2 reach that decision as to what were the</p> <p>3 relevant items and which ones were not?</p> <p>4 Did you do that yourself, or</p> <p>5 did you have input on that?</p> <p>6 A Jeffrey and I worked on that</p> <p>7 together or looked at that together and had</p> <p>8 discussions on it.</p> <p>9 Q Anyone else give you input on</p> <p>10 that?</p> <p>11 A No.</p> <p>12 Q Did you get any input from</p> <p>13 Washington TSA on what are the relevant or</p> <p>14 the irrelevant portions of the agreement</p> <p>15 for purposes of your analysis?</p> <p>16 A No, I have never spoken to</p> <p>17 anybody at the Washington TSA.</p> <p>18 Q Ever?</p> <p>19 A Not that I recall.</p> <p>20 Q How about Mr. Shapiro? Did he</p> <p>21 have any input on that decision?</p> <p>22 A No.</p> <p>23 Q Now, did you speak to</p> <p>24 Mr. Shapiro at all in connection with your</p> <p>25 report?</p>
Page 39	Page 41
<p>1 Daniel Curry</p> <p>2 where the requirement was that it was an</p> <p>3 "A-1 plus" requirement. I believe we have</p> <p>4 discussed that.</p> <p>5 Q Anything else?</p> <p>6 A I think the other provisions</p> <p>7 are relatively standard in that they can</p> <p>8 draw on the reserve fund if the reserve</p> <p>9 fund is needed. And then they have a</p> <p>10 replenishment provision, which allows them</p> <p>11 to replenish after or within a period of</p> <p>12 one year, should the payments resume at a</p> <p>13 level that would allow them to replenish</p> <p>14 the reserve fund.</p> <p>15 Those are, I would say, you</p> <p>16 know, very relevant in terms of being able</p> <p>17 to price this transaction.</p> <p>18 Q And if there were any other</p> <p>19 provisions of the agreement that were</p> <p>20 specifically relevant to your pricing of</p> <p>21 this transaction, did you identify them in</p> <p>22 your report?</p> <p>23 A I believe we have -- I believe</p> <p>24 we put in the relevant items.</p> <p>25 Q By the way, how -- how did you</p>	<p>1 Daniel Curry</p> <p>2 A In connection with the report,</p> <p>3 no.</p> <p>4 Q Okay. So you did speak with</p> <p>5 him back when you were being considered for</p> <p>6 this engagement, correct?</p> <p>7 A That is correct.</p> <p>8 Q Did you discuss any aspects of</p> <p>9 your methodology or your report with</p> <p>10 Mr. Shapiro at any time?</p> <p>11 A No.</p> <p>12 Q Now, have you reviewed</p> <p>13 Mr. Shapiro's calculation of the early</p> <p>14 termination amount?</p> <p>15 A I read through his report.</p> <p>16 Q Okay. Do you have any opinions</p> <p>17 that you are offering in this case based on</p> <p>18 your reading of his report?</p> <p>19 A I don't believe we were asked</p> <p>20 to opine on his report, so we did not read</p> <p>21 it -- read it for the purposes of giving an</p> <p>22 opinion.</p> <p>23 Q Why did you read it?</p> <p>24 A It was part of the documents</p> <p>25 that we reviewed. And we read through a</p>

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Page 42	Page 44
<p>1 Daniel Curry</p> <p>2 large portion of the documents and skimmed</p> <p>3 through another large portion of the</p> <p>4 documents.</p> <p>5 Between -- I mean, we skimmed</p> <p>6 every document, and there were certain ones</p> <p>7 that we did read. And that was one that we</p> <p>8 read.</p> <p>9 Q Are there any aspects of his</p> <p>10 report that you disagree with?</p> <p>11 A We used a different methodology</p> <p>12 than he used. You know, I would leave it</p> <p>13 at that. We used a different methodology</p> <p>14 mostly because the ability to transact -- I</p> <p>15 mean, his -- you know, his methodology kind</p> <p>16 of used -- well, if you could -- if you</p> <p>17 could have transacted -- this is the</p> <p>18 methodology that you would have used.</p> <p>19 And we came at it from a</p> <p>20 different angle, which is, you can't</p> <p>21 transact.</p> <p>22 Q You understand that at least</p> <p>23 one of the building blocks of Mr. Shapiro's</p> <p>24 analysis was a forward curve, correct?</p> <p>25 A I believe what he did was</p>	<p>1 Daniel Curry</p> <p>2 valuation, also, recognizing that -- I</p> <p>3 believe, recognizing that there was no</p> <p>4 market for that trade.</p> <p>5 Q Okay. So what he did was wrong</p> <p>6 then in your view?</p> <p>7 MR. LAWRENCE: Object to the</p> <p>8 form.</p> <p>9 A Was it wrong? In the absence</p> <p>10 of a tradeable transaction, it would be a</p> <p>11 way of estimating a value.</p> <p>12 Q I'm sorry. So it was right, or</p> <p>13 was it wrong?</p> <p>14 MR. LAWRENCE: Object to the</p> <p>15 form.</p> <p>16 A I can't say that it was right</p> <p>17 or wrong. It's -- you know, you are</p> <p>18 looking at a transaction that you can't</p> <p>19 transact. You are looking at a transaction</p> <p>20 that required specific performance. And</p> <p>21 that specific performance can't be obtained</p> <p>22 in the current market.</p> <p>23 So -- but in order to place a</p> <p>24 value, you need to replicate a transaction,</p> <p>25 or you need to put an estimate, or you need</p>
Page 43	Page 45
<p>1 Daniel Curry</p> <p>2 looked at the forward curve in relation to</p> <p>3 hedges that -- or he looked at the result</p> <p>4 of the forward curve, which would have been</p> <p>5 a transaction that, in theory, you could</p> <p>6 have hedged.</p> <p>7 Q And, at least, it seems to be a</p> <p>8 central part of your report that -- well,</p> <p>9 you reject the use of the forward curve,</p> <p>10 correct?</p> <p>11 A I reject the use of the forward</p> <p>12 curve because I don't believe the forward</p> <p>13 curve gives you any value unless you can</p> <p>14 enter into a hedge that has been priced</p> <p>15 from that forward curve.</p> <p>16 Q So, in your opinion,</p> <p>17 Mr. Shapiro just got that wrong?</p> <p>18 MR. LAWRENCE: Object to the</p> <p>19 form.</p> <p>20 A I think -- I think he utilized</p> <p>21 a way of looking at a transaction as if a</p> <p>22 transaction could have been undertaken as a</p> <p>23 way to show a value.</p> <p>24 So he used that -- he used</p> <p>25 hedges as a building block for his</p>	<p>1 Daniel Curry</p> <p>2 to put an "as if you could trade" type</p> <p>3 value on it. And that's what he did.</p> <p>4 Q You saw that part of his</p> <p>5 analysis took that curve methodology and</p> <p>6 then made some changes to it, made some</p> <p>7 additions and subtractions to it, correct?</p> <p>8 A Correct.</p> <p>9 Q And you saw that he purported</p> <p>10 to do that to capture credit risk?</p> <p>11 A Correct.</p> <p>12 Q Okay. Have you ever calculated</p> <p>13 credit risk in that manner in your 20 years</p> <p>14 of municipal finance?</p> <p>15 A I wasn't the one who would have</p> <p>16 calculated credit risk.</p> <p>17 Q Okay. Do you have any view as</p> <p>18 to the way Mr. Shapiro calculated credit</p> <p>19 risk?</p> <p>20 A I believe what he did is he</p> <p>21 took bond spreads. And bond spreads are an</p> <p>22 input into credit models.</p> <p>23 Q Do you know whether he adjusted</p> <p>24 the bond spreads at all --</p> <p>25 A I do not.</p>

12 (Pages 42 to 45)



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<p>1 Daniel Curry</p> <p>2 Q -- to account for exposure?</p> <p>3 A I do not.</p> <p>4 Q Given our discussion earlier</p> <p>5 about exposure and credit risk, is it your</p> <p>6 view that Mr. Shapiro should have taken</p> <p>7 into account exposure in calculating credit</p> <p>8 risk?</p> <p>9 A I mean, part of that is</p> <p>10 implicit in the bond spreads themselves. I</p> <p>11 mean, the bond spread, part of it is to</p> <p>12 compensate you for exposure that you are</p> <p>13 going to take.</p> <p>14 So something that's considered</p> <p>15 riskier is going to have wider spreads</p> <p>16 or -- wider spreads in order to compensate</p> <p>17 you for the risk that you are going to</p> <p>18 take.</p> <p>19 Q So what part of that bond</p> <p>20 spread -- because you understand he took</p> <p>21 the entire bond spread and used it to</p> <p>22 adjust the curve, correct?</p> <p>23 A I don't know.</p> <p>24 Q Well, if he had used the entire</p> <p>25 bond spread and used it to adjust the</p>	<p>1 Daniel Curry</p> <p>2 MR. LAWRENCE: Can we take a</p> <p>3 break soon? Can we take a short</p> <p>4 break?</p> <p>5 MR. TAMBE: No, he's reading.</p> <p>6 MR. LAWRENCE: Well, I mean, I</p> <p>7 just wanted to go out of the room.</p> <p>8 He's still going to read it.</p> <p>9 MR. TAMBE: Okay. That's fine.</p> <p>10 If you want to take a break -- there's</p> <p>11 a question pending, so I would rather</p> <p>12 you not confer with the witness.</p> <p>13 MR. LAWRENCE: Well, actually,</p> <p>14 I don't think there is a question</p> <p>15 pending. All you did was ask him to</p> <p>16 review the document.</p> <p>17 MR. TAMBE: Well, but I am</p> <p>18 asking questions about that document.</p> <p>19 MR. LAWRENCE: I understand</p> <p>20 that. There is no question pending.</p> <p>21 So are we off the record or</p> <p>22 not?</p> <p>23 MR. TAMBE: I would rather</p> <p>24 actually finish this line of</p> <p>25 questioning before we take a break.</p>
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<p>1 Daniel Curry</p> <p>2 curve --</p> <p>3 A How do you define -- I don't</p> <p>4 know how you are designing "spread." Is</p> <p>5 it --</p> <p>6 Q The way he defined it. Let's</p> <p>7 go to his report so we aren't -- so we are</p> <p>8 talking about the same thing.</p> <p>9 It's Lehman 32, which was</p> <p>10 marked yesterday, and there it is.</p> <p>11 So let's turn to -- I believe</p> <p>12 it's a double-sided document. It's page</p> <p>13 two of his report. And he's got a heading</p> <p>14 that says:</p> <p>15 "Charges for municipal tobacco</p> <p>16 credit."</p> <p>17 Why don't you take a moment and</p> <p>18 read those two paragraphs to yourself.</p> <p>19 There is more later on, but I think that's</p> <p>20 where he explained what he did. And then</p> <p>21 once you are done, let me know; and I will</p> <p>22 ask you some questions about it.</p> <p>23 (Previously Marked Exhibit No.</p> <p>24 Lehman 32, Report of Mr. Shapiro is</p> <p>25 introduced into the proceedings.)</p>	<p>1 Daniel Curry</p> <p>2 MR. LAWRENCE: Okay.</p> <p>3 Q So you read those paragraphs?</p> <p>4 A I read the two paragraphs.</p> <p>5 Q Do you now, sir, understand</p> <p>6 what Mr. Shapiro did with the bond spreads</p> <p>7 and how he used them in his calculation?</p> <p>8 A No.</p> <p>9 Q Okay. So you can't tell from</p> <p>10 that description what he did?</p> <p>11 A All he's doing is describing</p> <p>12 the spread. It doesn't say how he used it.</p> <p>13 Q If you go over to the next page</p> <p>14 of this report, page three, I believe you</p> <p>15 will see how he uses the credit spread.</p> <p>16 In the part</p> <p>17 titled, "Calculation of Loss," do you see</p> <p>18 that?</p> <p>19 A Um-hum.</p> <p>20 MR. LAWRENCE: You have to</p> <p>21 answer "yes" or "no."</p> <p>22 A Yes. Sorry.</p> <p>23 Q So if you see, he starts with a</p> <p>24 CP spread, subtracts the credit spread,</p> <p>25 subtracts the profit component, and comes</p>

13 (Pages 46 to 49)



Page 50	Page 52
<p>1 Daniel Curry 2 up with a total number. 3 Do you see that? 4 A So that's his adjustment, I 5 take it. 6 Q Yes. 7 A Um-hum. 8 Q Do you have any views as to 9 whether that's a proper way of using the 10 credit spread to make adjustments for 11 purposes of a tobacco FPA? 12 MR. LAWRENCE: Object to the 13 form. 14 A Can you repeat the question, 15 please? 16 MR. TAMBE: Can you read it 17 back, please. 18 (Reporter read back pending 19 question.) 20 A Do I have a view? I'm sorry. 21 Is that what it is? 22 Q Yes. 23 A I don't have a view. 24 Q No views. 25 Have you ever done it the way</p>	<p>1 Daniel Curry 2 the money to -- just looking at the dealer 3 and the tobacco counterparty, what's your 4 view of who is in the money? 5 A Well, for the next -- for the 6 next person who steps into it, if that 7 person existed, you would have a situation 8 where that other party would owe you a lot 9 of money, and you would have to credit 10 adjust the amount of -- you would have to 11 credit adjust for the fact that you had 12 what we would call a risky counterparty 13 paying you money. 14 Q So your understanding is, based 15 on your view of the market at this point in 16 time, a hypothetical dealer stepping into 17 the trade paying 4.484 and earning the CP 18 spread would be out of the money? 19 MR. LAWRENCE: Object to the 20 form. 21 A I would say that that party -- 22 I mean, it would be in the money to the 23 dealer in that the other party owed them -- 24 the municipality, in this case, would owe 25 them money. So they have a risky</p>
Page 51	Page 53
<p>1 Daniel Curry 2 Mr. Shapiro purports to have done it? 3 MR. LAWRENCE: Object to the 4 form. 5 A No. But there is a difference 6 between a new trade that you would enter 7 into and then a trade you would take on 8 assignment that was deeply in the money. 9 Q What is that difference? 10 A Well, you -- a trade that you 11 are looking at prospectively in theory has 12 little or no value, that mark-to-market 13 value. So your -- your credit exposure is 14 on a projected basis. 15 Here, the trade is already deep 16 in the money. 17 Q To whom? 18 A A new dealer would go -- have 19 to basically do hedges that cost them a lot 20 of money to enter into. So their exposure 21 to different than what your exposure would 22 have been if you were doing a new trade 23 kind of day one. 24 Q Well, looking at the 25 counterparty, this is a trade that is in</p>	<p>1 Daniel Curry 2 counterparty that owes them money. 3 Q That's your understanding of 4 the hypothetical situation set forth by 5 Mr. Shapiro; is that right? 6 MR. LAWRENCE: Object to the 7 form. 8 A I believe that's a way of 9 viewing it. 10 Q All right. 11 MR. TAMBE: Why don't we take a 12 break now. 13 (A break is taken.) 14 CONTINUED DIRECT EXAMINATION 15 BY MR. TAMBE: 16 Q Going back to the Shapiro 17 report we were looking at, which is Lehman 18 Exhibit 32, if you go back to page three of 19 his report, the third page, the next page 20 over, yes -- so in the "Calculation of 21 Loss" section, you will see Mr. Shapiro 22 begins with a CP spread, makes some 23 adjustments to it, and comes out with a 24 total number. 25 Do you see that, which IS a</p>

14 (Pages 50 to 53)

Page 54	Page 56
<p>1 Daniel Curry 2 negative 3.874? Do you see that? 3 A Yes. 4 Q Okay. Do you understand that 5 as -- a negative 3.874, as an absolute 6 number or as a spread to LIBOR? 7 MR. LAWRENCE: Object to the 8 form. 9 A What he says is "would be 10 incorporated into the calculation of TSA's 11 loss." 12 So I would think of that as a 13 spread. 14 Q Okay. And if you are looking 15 at a spread to LIBOR of a negative 16 387 basis points, that would yield negative 17 interest rates, right, in the environment 18 we were in in 2009? 19 MR. LAWRENCE: Object to the 20 form. 21 A The way that you would apply 22 that spread would be to the fixed rate that 23 they pay. 24 Q How do you know that? 25 MR. LAWRENCE: Object to the</p>	<p>1 Daniel Curry 2 mind, based on my experience, would be an 3 adjustment. 4 Q Okay. No, my question is a 5 little different. Is that -- is it your 6 understanding that that's how Mr. Shapiro 7 was using that calculation? 8 MR. LAWRENCE: Object to the 9 form. 10 A Based on what he says in the 11 preceding paragraph, that is what I 12 believe. 13 Q Okay. Would you agree with me 14 that it would be non-standard to do a 15 calculation with negative interest rates on 16 the floating leg? 17 MR. LAWRENCE: Object to the 18 form. 19 A Can you repeat that, please. 20 Q Would you agree with me that it 21 would be non-standard, non-market standard, 22 to do a calculation with negative interest 23 rates for the floating leg? 24 MR. LAWRENCE: Object to the 25 form.</p>
Page 55	Page 57
<p>1 Daniel Curry 2 form. 3 A If we were paying a fixed rate 4 and we were taking reserves expressed as 5 basis points, that would be where we -- 6 those would be the numbers where we, as 7 Morgan Stanley or as a provider, would 8 adjust our rate. 9 We are not adjusting a fixed 10 freight -- I'm sorry -- the floating rate 11 side. We are paying fixed, so that would 12 be our adjustment. 13 Q And you understand that that -- 14 that's your understanding of what 15 Mr. Shapiro has done? 16 MR. LAWRENCE: Object to the 17 form. 18 A Just reading that first 19 paragraph under "Calculation of Loss," it 20 says: 21 "These are the components that 22 would be included." 23 So there is no swap rate there. 24 There is just a CP spread, the credit 25 spread, a profit, and total. So that in my</p>	<p>1 Daniel Curry 2 A I can see instances where 3 something like that could be the result. 4 Q Have you ever seen it? 5 A Have I ever seen it, or have I 6 done transactions that I believe have 7 resulted in it? 8 Q Have you ever seen it? 9 A Not at initial pricing, no. 10 Q You wouldn't enter into a 11 transaction with that scenario? 12 MR. LAWRENCE: Object to the 13 form. 14 A I don't see why or why not you 15 would or would not do that. There are 16 instances where that might be applicable. 17 I don't know those instances. 18 Q Let me see if I understand your 19 answer a different way. 20 If you are just doing an 21 interest rate swap where you're paying 22 fixed, receiving floating -- okay. Are you 23 with me so far? 24 A Um-hum. 25 Q Yes?</p>

15 (Pages 54 to 57)

Page 58	Page 60
<p>1 Daniel Curry 2 A Paying fixed, receiving 3 floating, yes. 4 MR. LAWRENCE: Get to a 5 question, please. 6 MR. TAMBE: I am just trying to 7 get to an answer. So I want to get an 8 answer "yes" or "no" as opposed to 9 "um-hum" or "hum-hum." So that's what 10 that was about. 11 Q So in a garden variety fixed or 12 floating swap -- 13 A "Garden variety," can you 14 explain what "garden variety" is? 15 Q A LIBOR swap. You are getting 16 a LIBOR floating rate of interest. You are 17 paying a fixed rate of interest. 18 A Is it an on-market swap, or is 19 it a -- 20 Q It's an on-market swap. 21 A Okay. 22 Q Anything else you want to add 23 to this assumption? 24 A No. 25 Q Any other -- okay. You've</p>	<p>1 Daniel Curry 2 MR. LAWRENCE: Objection to the 3 form. 4 A Wait, I'm sorry. Let's take a 5 step back. I reverse the side. They owe 6 money. 7 Q Okay. So just to go back to 8 where we were -- what we were talking about 9 before we took the break, it's exactly the 10 other way, right? 11 A They are owed money, correct. 12 Q They are owed money. And they 13 are owed money -- 14 A The issuer -- I'm sorry -- 15 paying fixed -- the issuer is owed money 16 because the issuer is receiving an 17 above-market rate, a currently above-market 18 rate. 19 Q Right. And because the issuer 20 is owed money, the issuer is, in the 21 parlance, "in the money" on the trade, 22 correct? 23 A Correct. 24 Q Okay. And so to actually enter 25 into such a transaction, which is not an</p>
Page 59	Page 61
<p>1 Daniel Curry 2 got -- that gives you enough to sort of 3 picture a swap in your mind, right? 4 A Okay. 5 Q Okay. On that swap, if you're 6 paying fixed and what you are receiving is 7 a negative floating rate, in effect, you 8 would be paying on both legs, correct? 9 A Correct. 10 Q Okay. Ever seen a transaction 11 like that at inception? 12 A Not on an on-market trade. 13 Q Okay. Going back to our 14 discussion of who was in the money or out 15 of the money in this hypothetical 16 transaction Mr. Shapiro was constructing in 17 his report, I believe you said the 18 hypothetical dealer was the one in the 19 money? 20 A They are owed money. 21 Q Oh, they are owed money. Okay. 22 And just let me understand why, 23 in your view, they are owed money by the 24 Washington TSA in this hypothetical 25 transaction.</p>	<p>1 Daniel Curry 2 on-market transaction, but a transaction 3 that you are stepping into, correct, a 4 dealer would have to be paid money to enter 5 into a transaction like that, correct? 6 A That is correct. 7 Q Okay. And if the dealer were 8 to be paid money on a transaction like 9 that, what credit risk would the dealer 10 have at that point? 11 A Well, the dealer presumably 12 still needs to do a hedge on the other 13 side. So the issuer could default, and the 14 dealer could be in a situation where they 15 still have to unwind their hedges. 16 So if there is any variation in 17 the movement of rates from where they go 18 and they enter into their new trade, they 19 would have exposure. 20 Q So that exposure, though, would 21 be on the hedge side, not a credit risk to 22 the counterparty, the Washington TSA? 23 A Well, on the hedge side, you 24 know, usually, what you would have is 25 collateral.</p>

16 (Pages 58 to 61)

Page 62	Page 64
<p>1 Daniel Curry 2 Dealer-to-dealer trades are 3 usually collateralized. So there would be 4 minimal credit risk. There may be some 5 re-hedging risk to rebalance your book. 6 And dealer-to-dealer trades 7 that are collateralized, generally, there 8 is not a huge amount of credit risk. There 9 is potential risk for disruption of the 10 market, which could cause -- give you an 11 exposure as you would have to rebalance 12 your books. 13 Q Okay. Going back to what you 14 did on a pre-trade basis when you were 15 involved with tobacco RFAs at Morgan 16 Stanley, we have talked about credit. We 17 have talked about legal. We talked 18 about -- risk management was another item 19 you had mentioned. 20 What role did you play in a 21 pre-trade basis with respect to risk 22 management? 23 A On a pre-trade basis, there is 24 no risk to manage. 25 Q All right. So should we take</p>	<p>1 Daniel Curry 2 in the Washington TSA, the dealer, Lehman 3 or any replacement dealer, would have 4 discretion as to what eligible security to 5 deliver as long as it was eligible, 6 correct? 7 A Correct. 8 Q Complete discretion? 9 A As long as it met the 10 requirements of the qualified securities. 11 In this case, they were primarily 12 delivering commercial paper. That 13 commercial paper would have had to have 14 been "A-1 plus P-1." 15 Q And they could have, if they 16 chose to, deliver agencies as well, 17 correct? 18 A They could have delivered 19 agencies. 20 Q And I believe Treasuries as 21 well? 22 A They could have delivered 23 agencies and Treasuries provided those 24 securities matured on or prior to the date, 25 to the bond payment dates.</p>
Page 63	Page 65
<p>1 Daniel Curry 2 that item off the list of involvements you 3 had on a pre-trade basis? 4 A There is no risk management 5 per se. I mean, there would be discussion 6 with risk people and risk management on how 7 you would manage the exposures if you 8 entered into the trade. But there is no 9 actual risk management. 10 Q Okay. And I assume that -- you 11 said you were involved in conference calls, 12 but the conference calls would have been 13 about these other matters, credit, legal, 14 risk; is that right? 15 A Generally, yes. 16 Q All right. On the post-trade 17 basis, once the trade has been entered 18 into, you mentioned you would have some 19 input on the deliverables; is that right? 20 A Correct. 21 Q And by "deliverables," you mean 22 what eligible securities were being 23 delivered by the dealer? 24 A Correct. 25 Q Okay. And you understand that,</p>	<p>1 Daniel Curry 2 Q So if they were eligible 3 securities? 4 A Eligible securities, as 5 defined, which I believe requires them to 6 mature on or prior to the bond payment 7 dates. 8 Q In addition to having some 9 input -- let me go back. 10 In addition to having some 11 input on deliverables, what else did you -- 12 what else was your involvement on the 13 post-trade basis? 14 A Sorting -- sort of helping to 15 synthesize any market developments as it 16 related to tobacco, making sure that the 17 appropriate people would see the 18 information, being involved in discussions 19 around developments that they would have on 20 our book, offering advice to the trader who 21 was managing the book, speaking to bond 22 traders, speaking to portfolio managers 23 that had tobacco risks, speaking to other 24 people to kind of get their assessment of 25 that, all as it would relate to the</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 Daniel Curry</p> <p>2 exposure that we had on our book and</p> <p>3 changes that we may need to make related to</p> <p>4 hedges and things as a result of those</p> <p>5 market developments.</p> <p>6 Q On a post-trade basis, did you</p> <p>7 have any involvement terminating tobacco</p> <p>8 FPAs?</p> <p>9 A There was one trade that I</p> <p>10 recall I had some input on, unwinding -- it</p> <p>11 wasn't termination. It was mutually agreed</p> <p>12 to unwind. It wasn't a termination that</p> <p>13 needed to happen as a requirement of</p> <p>14 documentation.</p> <p>15 Q And what was your</p> <p>16 involvement -- what was your involvement --</p> <p>17 was -- I'm sorry -- it was a tobacco FPA?</p> <p>18 A That was a tobacco FPA.</p> <p>19 Q And what was your involvement</p> <p>20 in the mutually agreed unwind of that</p> <p>21 tobacco FPA?</p> <p>22 A Dealing with some of the</p> <p>23 funding issues that that -- and some of the</p> <p>24 hedges that needed to be unwound as it</p> <p>25 related to that transaction.</p>	<p style="text-align: right;">Page 68</p> <p>1 Daniel Curry</p> <p>2 Q Yes. Let me rephrase the</p> <p>3 question.</p> <p>4 While you were at Morgan</p> <p>5 Stanley, were you aware that from time to</p> <p>6 time parties in the market would call</p> <p>7 Morgan Stanley as a dealer and Morgan</p> <p>8 Stanley to provide a quote on a derivative</p> <p>9 transaction?</p> <p>10 A Yes.</p> <p>11 Q Okay. And were you familiar</p> <p>12 that parties did that with respect to</p> <p>13 tobacco FPAs from time to time?</p> <p>14 A I think it would just be part</p> <p>15 of the natural course of business that</p> <p>16 tobacco would have been part of that.</p> <p>17 Q And are you -- do you have any</p> <p>18 specific recollection of any quote having</p> <p>19 been provided by Morgan Stanley post Lehman</p> <p>20 bankruptcy to third parties who were</p> <p>21 seeking a quotation or a valuation of a</p> <p>22 tobacco FPA?</p> <p>23 A There may have been some</p> <p>24 requests. I think that one of the issues</p> <p>25 around that is our rating was declining at</p>
<p style="text-align: right;">Page 67</p> <p>1 Daniel Curry</p> <p>2 Q Did you have any input in the</p> <p>3 valuation of that mutually-agreed-upon</p> <p>4 unwind?</p> <p>5 A I believe my contribution was</p> <p>6 just talking about a particular spread that</p> <p>7 created an exposure. That went into the</p> <p>8 rate or the valuation of the unwind.</p> <p>9 Q And was that an unwind that was</p> <p>10 post the Lehman bankruptcy?</p> <p>11 A I don't believe it was post. I</p> <p>12 believe it was -- I don't believe it was</p> <p>13 post. I believe it was -- I am not sure.</p> <p>14 Q And do you remember whether</p> <p>15 Morgan Stanley was paid money or paid money</p> <p>16 to mutually unwind that trade?</p> <p>17 A I believe we paid money.</p> <p>18 Q And do you remember the spread</p> <p>19 that that trade was unwound at?</p> <p>20 A I do not.</p> <p>21 Q Did you have any involvement</p> <p>22 with providing quotations or valuations to</p> <p>23 others on tobacco FPA contracts post the</p> <p>24 Lehman bankruptcy?</p> <p>25 A Can you be more specific.</p>	<p style="text-align: right;">Page 69</p> <p>1 Daniel Curry</p> <p>2 that point; so in a lot of instances we</p> <p>3 were not an eligible counterparty. So we</p> <p>4 were not necessarily a go-to place for</p> <p>5 those types of quotations.</p> <p>6 Q If a request for quotations had</p> <p>7 come into Morgan Stanley, would you have</p> <p>8 been involved in fielding that request?</p> <p>9 A The quotation for a transaction</p> <p>10 where we did not have an exposure, I would</p> <p>11 not have been involved in.</p> <p>12 Q Who -- again, I mean post</p> <p>13 Lehman bankruptcy time period.</p> <p>14 Who at Morgan Stanley would</p> <p>15 have been involved in that process?</p> <p>16 A It could have come in through</p> <p>17 one of two, potentially three sources. The</p> <p>18 CVA desk might have been asked for that.</p> <p>19 And as this was a product that required</p> <p>20 specific expertise, they would have spoken</p> <p>21 to somebody on my desk. It could have come</p> <p>22 in directly to my desk, my general area,</p> <p>23 most likely to either Kevin Schwartz or</p> <p>24 Fabrice Pilato.</p> <p>25 Potentially -- and, I mean,</p>

18 (Pages 66 to 69)



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<p>1 Daniel Curry</p> <p>2 this is probably the least likely -- but,</p> <p>3 perhaps, it could have come in through the</p> <p>4 banking side. I don't recall anything</p> <p>5 coming in through the banking side. But</p> <p>6 that's not to say it didn't happen.</p> <p>7 Q And you can't -- you don't know</p> <p>8 one way or the other whether Morgan Stanley</p> <p>9 from time to time did provide quotes to</p> <p>10 tobacco FPA parties where Morgan Stanley</p> <p>11 itself did not have an exposure?</p> <p>12 A I am not aware of it. In any</p> <p>13 event, if we did provide a quote, it would</p> <p>14 not have been an actionable quote.</p> <p>15 Q All right. I just want to make</p> <p>16 sure I understand this better.</p> <p>17 If you go back to your report,</p> <p>18 which is Exhibit 30, page six of your</p> <p>19 report, the second full paragraph on that</p> <p>20 page, the last sentence of that paragraph</p> <p>21 reads as follows:</p> <p>22 "As municipal finance</p> <p>23 professionals who structured and marketed</p> <p>24 FPAs, we agree that quotes and, in</p> <p>25 particular, actionable quotes could not be</p>	<p>1 Daniel Curry</p> <p>2 that sentence to make that distinction?</p> <p>3 A I would say that indications,</p> <p>4 very, very broad indications, ranges, were</p> <p>5 obtainable for the purpose of unwinds. I</p> <p>6 don't know that anybody would give you a</p> <p>7 quote or a firm indication to kind of parse</p> <p>8 it a little bit on new transactions.</p> <p>9 I don't know that you would</p> <p>10 have gotten actionable. I don't believe</p> <p>11 you would be able to get actionable quotes</p> <p>12 for taking on a transaction at that time;</p> <p>13 and, actually, I believe that is still more</p> <p>14 or less in effect today.</p> <p>15 I don't believe you can get</p> <p>16 quotes for assignments, for example, on</p> <p>17 these types of transactions.</p> <p>18 Q So putting aside assignments or</p> <p>19 actionable quotes, just so I'm clear, your</p> <p>20 understanding is that it was possible to</p> <p>21 get indicative quotes on tobacco FPAs post</p> <p>22 Lehman bankruptcy?</p> <p>23 A I think you have to -- I think</p> <p>24 you could get an quote on an unwind value.</p> <p>25 So, for example, if somebody went in to</p>
Page 71	Page 73
<p>1 Daniel Curry</p> <p>2 obtained at or around rejection date."</p> <p>3 Do you see that?</p> <p>4 A Yep.</p> <p>5 Q You obviously -- did you write</p> <p>6 that sentence?</p> <p>7 A I don't know if I wrote that or</p> <p>8 Jeffrey wrote that.</p> <p>9 Q As you sit here, do you agree</p> <p>10 with that sentence?</p> <p>11 A I do agree with that sentence.</p> <p>12 Q So are you saying that as -- or</p> <p>13 are you opining, that, as municipal finance</p> <p>14 professionals who structured and marketed</p> <p>15 FPAs, quotes could not be obtained at or</p> <p>16 around the rejection date?</p> <p>17 MR. LAWRENCE: Object to the</p> <p>18 form.</p> <p>19 A I think we have to</p> <p>20 distinguish -- or we probably should have</p> <p>21 distinguished a little bit better between</p> <p>22 "indications" and, "quotes." Most</p> <p>23 certainly, actionable quotes could not be</p> <p>24 obtained.</p> <p>25 Q So how -- how would you edit</p>	<p>1 Daniel Curry</p> <p>2 Morgan Stanley and said, "I want to unwind</p> <p>3 a trade that I have with you," those you --</p> <p>4 you could quote. You could give a price.</p> <p>5 In terms of somebody calling up</p> <p>6 and saying, "I have this trade on with this</p> <p>7 particular dealer; what do you think this</p> <p>8 thing is worth, more or less," I think you</p> <p>9 could get that type of exposure.</p> <p>10 But the differentiation there</p> <p>11 is -- that is you are dealing with a</p> <p>12 transaction where there is a hedge in place</p> <p>13 and you are taking off a hedge as opposed</p> <p>14 to a transaction where you are putting</p> <p>15 hedges in place and taking on new</p> <p>16 exposures.</p> <p>17 I think that's the</p> <p>18 differentiation you need to make.</p> <p>19 Q So, just again, unpackaging</p> <p>20 your answer, if someone had a trade on with</p> <p>21 Morgan Stanley and asked for a quote on</p> <p>22 unwinding that trade, that could be</p> <p>23 obtained, correct?</p> <p>24 A Sure, if somebody had a</p> <p>25 transaction that they wanted to unwind, we</p>



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<p>1 Daniel Curry</p> <p>2 could give them an unwind price. I think</p> <p>3 they would have been more than happy to</p> <p>4 give them an unwind price because they</p> <p>5 didn't want the exposure.</p> <p>6 Q That's one category where you</p> <p>7 could get quotations.</p> <p>8 Another category where you</p> <p>9 could get quotations is if a counterparty</p> <p>10 did not have a trade on with Morgan Stanley</p> <p>11 but said "I have a trade on with another</p> <p>12 dealer and I want to get an unwind</p> <p>13 valuation or estimation of value," and</p> <p>14 Morgan Stanley would provide that, correct?</p> <p>15 A They might provide an</p> <p>16 indication. It would not have been me.</p> <p>17 They might provide an indication as to</p> <p>18 where they thought that transaction could</p> <p>19 be unwound. I don't believe they would</p> <p>20 have provided an indication as to where</p> <p>21 that transaction could have been</p> <p>22 transferred or replaced by another party.</p> <p>23 Q I just want to make sure I</p> <p>24 understood your answer because I am not</p> <p>25 sure we got it down right.</p>	<p>1 Daniel Curry</p> <p>2 Morgan Stanley, right?</p> <p>3 A Correct.</p> <p>4 Q Can you describe sort of what</p> <p>5 the relationship was working- and</p> <p>6 reporting-wise at Morgan Stanley between</p> <p>7 you and Mr. Hasterok?</p> <p>8 A Jeffrey was on the marketing</p> <p>9 side, so he typically dealt with the</p> <p>10 municipal issuers. He reported to a</p> <p>11 gentleman named Kevin Schwartz. I was</p> <p>12 on -- I sat on the trading desk.</p> <p>13 I -- I was primarily a</p> <p>14 structuring person, although I did have</p> <p>15 certain trading positions where I was the</p> <p>16 responsible trader.</p> <p>17 I reported to a gentleman named</p> <p>18 Fabrice Pilato. At various points in time,</p> <p>19 Jeffrey's -- the marketing group reported</p> <p>20 to -- or Jeffrey's boss Kevin reported to a</p> <p>21 few different people.</p> <p>22 At one point they were part of</p> <p>23 what they called "global capital markets"</p> <p>24 which is really more the issuer-facing</p> <p>25 business on the corporate side and on the</p>
Page 75	Page 77
<p>1 Daniel Curry</p> <p>2 You said:</p> <p>3 "They might provide an</p> <p>4 indication. It would not have been me."</p> <p>5 Is that right?</p> <p>6 A That is correct.</p> <p>7 Q So whoever at Morgan Stanley</p> <p>8 may have provided that would have been</p> <p>9 someone other than you?</p> <p>10 A Someone other than me, likely</p> <p>11 on my trading desk, with possible</p> <p>12 involvement by other parties, or other</p> <p>13 trading desks.</p> <p>14 Q All right. So to be fair, when</p> <p>15 the judge is reading this sentence in your</p> <p>16 expert report, she should read it with this</p> <p>17 context in terms of what types of</p> <p>18 indicative quotes and levels might have</p> <p>19 been obtained in the market at or around</p> <p>20 the rejection date; is that right?</p> <p>21 A Correct.</p> <p>22 Q Okay. In preparing your report</p> <p>23 you worked with Mr. Hasterok, correct?</p> <p>24 A Yes, correct.</p> <p>25 Q And you had worked with him at</p>	<p>1 Daniel Curry</p> <p>2 municipal side, and that type of thing.</p> <p>3 At some point, Jeffrey's group</p> <p>4 was moved back into the municipal group.</p> <p>5 And I believe Kevin Schwartz reported into</p> <p>6 Fabrice, or he may have had kind of a</p> <p>7 dotted line reporting line into Fabrice.</p> <p>8 So we worked closely together.</p> <p>9 At one point, his group was upstairs from</p> <p>10 ours. At one point, they were a couple of</p> <p>11 rows away from us. At the end of our</p> <p>12 tenure at Morgan Stanley, we were probably</p> <p>13 about as close as I am from you. And that</p> <p>14 would have been probably the last two years</p> <p>15 or so.</p> <p>16 Q So did you work from time to</p> <p>17 time on matters with Jeffrey?</p> <p>18 A In terms of structuring new</p> <p>19 transactions or to the extent that we had</p> <p>20 exposures that we wanted to get out of, I</p> <p>21 would be working with the marketing people</p> <p>22 to put transactions like that together.</p> <p>23 So if we wanted something, I</p> <p>24 would be dealing with Kevin and Jeff and</p> <p>25 others who were in that group at points in</p>

20 (Pages 74 to 77)

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<p>1 Daniel Curry 2 time saying: 3 "Okay. This is the type of 4 trade that we want to do. This is how we 5 want to document it." 6 And I would be working with 7 them to the extent -- so that would be kind 8 of a new exposure, if you want to think 9 about it that way. 10 If we had something on our 11 books that perhaps we had too much of it or 12 it wasn't the type -- the risk that we 13 wished, I would be putting together 14 transactions that would potentially reduce 15 that type of risk that we had on our books 16 and trying to help put it in a format that 17 a customer might have wished to have. 18 Q Did any of those transactions 19 or matters concern tobacco FPAs? 20 A Yes. 21 Q And in any of your dealings 22 with Jeffrey on tobacco FPAs, did you 23 employ a valuation methodology like the one 24 you have in your report? 25 A No.</p>	<p>1 Daniel Curry 2 situations did you show scenarios like that 3 in? 4 A When people were buying or 5 selling short-term securities. 6 Q And what kinds of short-term 7 securities? 8 A That would be investors buying 9 variable rate demand bonds or buying 10 auction rate securities, for instance, or 11 issuers selling auction rate securities or 12 variable rate demand bonds, or issuers 13 going in finance -- or, sorry -- customers 14 financing bonds through tender option bond 15 programs. So those would be scenarios that 16 we would run. 17 Q And are those scenarios in 18 which you would value those transaction or 19 are those one of many scenarios which you 20 would run? 21 A Those are one of many scenarios 22 that we would run. 23 Q In your practical experience in 24 the past 20 years in municipal finance, has 25 it been your experience that short-term</p>
Page 79	Page 81
<p>1 Daniel Curry 2 Q Other than this report, 3 Exhibit 30, have you ever employed the 4 valuation methodology that is set forth in 5 Exhibit 30 on any other transaction? 6 A It wasn't applicable to other 7 transactions. The issue here or the 8 transactions that I would have worked on 9 with Jeffrey were places where we had 10 hedges in place and you were looking to 11 unwind a hedge or transactions where you 12 would have been able to hedge new exposure. 13 So it's not applicable, or it wouldn't have 14 been applicable. 15 Q In any of your prior work in 16 your 20 years in municipal finance, have 17 you ever assumed for purposes of whatever 18 work you're doing -- risk management, 19 credit, valuation, hedging -- that current 20 short-term interest rates would remain 21 effective and unchanged over a period of 22 23 years? 23 A We have shown scenarios like 24 that. 25 Q You have. And what types of</p>	<p>1 Daniel Curry 2 rates in CDs, government agencies, 3 Treasuries, commercial paper, have been 4 flat and unchanged for 23 years? 5 A I don't know that they have 6 been flat and unchanged for more than a 7 day. 8 Q Was there any particular 9 analysis that either you or Jeffrey did, 10 Mr. Hasterok, I'm sorry, did, to assume for 11 purposes of your calculation that 12 short-term rates could be projected 13 unchanged into the future for up to 14 23 years? 15 MR. LAWRENCE: Objection to the 16 form. 17 A There was no analysis that was 18 done that I can recall. 19 Q When I spoke to Mr. Hasterok 20 yesterday, we discussed that there are two 21 separate calculations that you did with 22 respect to various short-term rates. You 23 did a four-month average, and you did a 24 four-year average, round numbers. 25 A Okay.</p>

21 (Pages 78 to 81)

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<p>1 Daniel Curry</p> <p>2 Q Are you familiar with that?</p> <p>3 A I'm familiar with it.</p> <p>4 Q Okay. Did you discuss with</p> <p>5 Mr. Hasterok doing longer averages, say,</p> <p>6 seven-year averages, ten-year averages,</p> <p>7 twenty-year averages?</p> <p>8 A Not specifically.</p> <p>9 Q Well, generally, what did you</p> <p>10 discuss with Mr. Hasterok about what</p> <p>11 average term you would use for purposes of</p> <p>12 your report?</p> <p>13 A I think we just -- we discussed</p> <p>14 short-term rates in general. We discussed</p> <p>15 the fact that we had to look at the</p> <p>16 valuation as of the rejection date. We</p> <p>17 looked at the rates that they had earned</p> <p>18 from the rejection date -- I'm sorry --</p> <p>19 through the last -- through the failed</p> <p>20 delivery date and the rejection date, so</p> <p>21 what they were able to obtain then.</p> <p>22 So those were, you know, more</p> <p>23 or less actual damages, or damages to that</p> <p>24 particular date. And then we looked at the</p> <p>25 rates that they were able to actually earn</p>	<p>1 Daniel Curry</p> <p>2 very, very wealthy men if we could project,</p> <p>3 you know, even short-term rates. And</p> <p>4 that's not necessarily possible.</p> <p>5 Q You mentioned, I think, the</p> <p>6 last answer about doing the calculation as</p> <p>7 of a rejection date.</p> <p>8 Do you remember that?</p> <p>9 A Um-hum.</p> <p>10 Q Yes?</p> <p>11 A Yes.</p> <p>12 Q What is your understanding of</p> <p>13 the valuation that you have been asked to</p> <p>14 do. Have you been asked to do a valuation</p> <p>15 as of the rejection date or as of some</p> <p>16 earlier date or some later date?</p> <p>17 A I believe it was as of the</p> <p>18 rejection date. Excuse me.</p> <p>19 Q And to do that type of</p> <p>20 valuation -- well, how do you do something</p> <p>21 like that?</p> <p>22 Here you are in 2013 when you</p> <p>23 get engaged, and you are being asked to do</p> <p>24 something as of March of 2009.</p> <p>25 How do you do that?</p>
Page 83	Page 85
<p>1 Daniel Curry</p> <p>2 from that point in time to today as more or</p> <p>3 less a reference point to show that,</p> <p>4 even if you used that four-month period,</p> <p>5 the rates have gone lower and lower and</p> <p>6 lower; and they are incurring more loss</p> <p>7 than those rates would have predicted.</p> <p>8 You know, we had discussions</p> <p>9 about potential Fed policy. We had</p> <p>10 discussions about the fact that they are in</p> <p>11 money market funds and money market funds</p> <p>12 are currently waiving their management</p> <p>13 fees; so, if and when rates do rise, money</p> <p>14 market funds are likely to trail because it</p> <p>15 would be anticipated or would be expected</p> <p>16 that they would go and re-implement those</p> <p>17 fees.</p> <p>18 So if those fees were in place</p> <p>19 now, you would actually have negative</p> <p>20 yields, or you would need to pay to put</p> <p>21 money into a money market fund. That would</p> <p>22 not be expected to go forward, so there</p> <p>23 would be, again, a lag.</p> <p>24 And just the general</p> <p>25 recognition that there is -- we would be</p>	<p>1 Daniel Curry</p> <p>2 MR. LAWRENCE: Object to the</p> <p>3 form.</p> <p>4 A You look at where, you know,</p> <p>5 for example, rates and volatility were in</p> <p>6 the particular market. You look at -- or</p> <p>7 you remember what was going on in the</p> <p>8 market. You think back about what you were</p> <p>9 allowed to do from a trading perspective</p> <p>10 and taking exposures.</p> <p>11 You think back to what your</p> <p>12 counterparties at other firms could or</p> <p>13 couldn't do. To a certain extent, you are</p> <p>14 looking at what's going on today to</p> <p>15 reaffirm what was going on at that period</p> <p>16 of time.</p> <p>17 And you apply your market</p> <p>18 knowledge and your professional knowledge</p> <p>19 to calculating what you believe to be a</p> <p>20 proper "what if" for that period.</p> <p>21 Q I think I am with you with most</p> <p>22 of your answer except for what you said</p> <p>23 about looking at what's going on today to</p> <p>24 reaffirm what was going on at that period.</p> <p>25 How do you do that?</p>

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<p>1 Daniel Curry</p> <p>2 A Well, again, to my knowledge,</p> <p>3 the market for forward purchase agreements,</p> <p>4 the ability to do new transactions, the</p> <p>5 ability to novate transactions, the ability</p> <p>6 to lay off some of that risk in those</p> <p>7 positions, still does not -- still does not</p> <p>8 exist.</p> <p>9 Q You would agree with me, would</p> <p>10 you not, that, as of March 25, 2009, the</p> <p>11 market did not know that actual interest</p> <p>12 rates would be lower than forward curve</p> <p>13 implicated rates?</p> <p>14 MR. LAWRENCE: Object to the</p> <p>15 form.</p> <p>16 Q Correct?</p> <p>17 A I think, if the market knew,</p> <p>18 the market would have reacted; and the</p> <p>19 rates would have been what the market</p> <p>20 believed.</p> <p>21 Q So when you go back and you put</p> <p>22 yourself back on March 25, 2009, and you</p> <p>23 look at the various forward curves, that's</p> <p>24 the market's view as of that date of what</p> <p>25 the market expects rates to be in the</p>	<p>1 Daniel Curry</p> <p>2 Q And that's what -- that's how</p> <p>3 they would trade, and that's what they</p> <p>4 would trade as of March 25, 2009, correct?</p> <p>5 A Correct, for trades that</p> <p>6 adhered to whatever the market convention</p> <p>7 was for that particular -- for that</p> <p>8 particular item.</p> <p>9 So if you are looking at swaps,</p> <p>10 for example, swap rates between, you know,</p> <p>11 dealer to dealer, are fully collateralized</p> <p>12 transactions; so those are the rates that</p> <p>13 are quoted. The rates that are quoted are</p> <p>14 for what the -- what we would call a</p> <p>15 plain vanilla or a market standard</p> <p>16 transaction.</p> <p>17 Q And in addition to the swap</p> <p>18 rates, there are other market signals</p> <p>19 available on a daily basis about what is</p> <p>20 the shape and slope of the yield curve for</p> <p>21 Treasuries, correct?</p> <p>22 A Correct.</p> <p>23 Q And that yield curve is</p> <p>24 capturing the view of the market at that</p> <p>25 point in time of what US Treasuries are</p>
Page 87	Page 89
<p>1 Daniel Curry</p> <p>2 future, correct?</p> <p>3 A No, that was the rate where</p> <p>4 people would actually trade.</p> <p>5 Q Okay. So that's where they</p> <p>6 were prepared to transact?</p> <p>7 A Correct.</p> <p>8 Q And that was the view of</p> <p>9 what -- they were prepared to transact at</p> <p>10 those rates because that's what they</p> <p>11 believed was the market clearing price</p> <p>12 based on what was going to happen in the</p> <p>13 future?</p> <p>14 MR. LAWRENCE: Object to the</p> <p>15 form.</p> <p>16 A I mean, I believe what you said</p> <p>17 before was the forward curve.</p> <p>18 Q Yes.</p> <p>19 A So nothing trades on the</p> <p>20 forward curve. People would go and enter</p> <p>21 into swap transactions. If you looked at</p> <p>22 government bonds, they would go, and they</p> <p>23 would buy or sell government bonds at the</p> <p>24 yields that were -- that are used to</p> <p>25 construct forward curves.</p>	<p>1 Daniel Curry</p> <p>2 going to pay out over various periods of</p> <p>3 time, correct?</p> <p>4 A Well, that's a curve. That's</p> <p>5 where Treasuries will trade.</p> <p>6 Q Okay.</p> <p>7 A And it's an investor's view as</p> <p>8 to whether or not to buy a long-term or a</p> <p>9 short-term. But that's -- if you -- you</p> <p>10 know, their individual view, the</p> <p>11 culmination of all of their views is the</p> <p>12 interest rate curve for that particular</p> <p>13 class of securities.</p> <p>14 Q Okay. And you mentioned class</p> <p>15 of securities. There would be a different</p> <p>16 yield curve for agencies, correct?</p> <p>17 A Correct.</p> <p>18 Q And maybe even within agencies,</p> <p>19 for different types of agency products, you</p> <p>20 might have different curves?</p> <p>21 A Sure, you would have coupon</p> <p>22 bearings, and you would have discount</p> <p>23 bonds; or, you know, there are floating</p> <p>24 rate bonds; there are senior bonds; there</p> <p>25 are subordinate bonds. So an agency could</p>

23 (Pages 86 to 89)

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<p>1 Daniel Curry 2 have a whole bunch. 3 Q And just to be clear, as you 4 said with US Treasuries, that yield curve 5 is capturing the view of the market at that 6 point in time as to what those securities 7 are going to pay out over various periods 8 of time; is that right? 9 A What they are going to pay out 10 of what their value is. 11 Q I am using your words, the way 12 you described it. That's what -- that's 13 what their value is? 14 A That's what their value is. 15 Q Okay. Over various periods of 16 time. Okay. 17 A Value can be expressed in terms 18 of dollars or yield. 19 Q Yes, that's fine. 20 We had a discussion yesterday 21 about Mr. Peter Orr. 22 A No, I have never met him. 23 Q And one of the questions I had 24 was -- you quote -- I guess you cite 25 Mr. Orr in your report, correct?</p>	<p>1 Daniel Curry 2 followed that form. I mean, that was just 3 a widely held view, a discussion that was 4 had an on a more frequent than not basis. 5 I think anybody who trades just 6 recognizes that it's just a fundamental 7 principle of swaps and rates. And I am 8 sure, if we looked, we could have found 9 plenty of other citations that more or less 10 said the same. 11 Q Was there any process in 12 picking that citation as opposed to some 13 other? 14 A I don't think that there was 15 anything particularly involved there. 16 Q Who went looking for that 17 quote? Was it you or Mr. Hasterok? 18 A I believe he did. 19 Q And do you know how he did it? 20 A He probably -- I believe he did 21 a Google search of, you know, 22 predictability of -- predictability of 23 forward rates or, you know, some other such 24 term that would produce information that 25 related to that particular topic.</p>
Page 91	Page 93
<p>1 Daniel Curry 2 A I believe he's cited, yes. 3 Q And just describe to me how you 4 came to cite Mr. Orr in your report as 5 opposed to someone else or some other 6 source? 7 A I have to find the citation. 8 MR. LAWRENCE: Do you know what 9 page that is? 10 THE WITNESS: I don't. 11 Q It's on page 14, footnote 33. 12 Exhibit -- 13 A How we came to cite him? I 14 mean, it's -- if you are a trader or a 15 structurer, somebody who's in the market 16 and somebody who uses forward rates to 17 calculate hedges or to see where things 18 would hedge, your fundamental assumption is 19 that the forward curve is really only -- 20 its really only useful purpose is to 21 calculate where people would transact a 22 hedge, that it's not predictive of the 23 future movements of rates. 24 And I believe we were just 25 looking for some academic quote that</p>	<p>1 Daniel Curry 2 Q You said, "probably," "I 3 believe he did," what you described. Do 4 you know what he did? 5 A I do not. 6 Q Did you read his deposition 7 that was taken yesterday? 8 A I read through it last night 9 very late sort of quickly. 10 Q And before you read his 11 deposition, did you know that that was his 12 process in finding Mr. Orr? 13 A We may have actually, you know, 14 discussed doing a search or, you know, 15 coming up with something. I don't know 16 exactly. 17 Q You may have actually done lots 18 of things. 19 A Sure. 20 Q What do you remember actually 21 having done? 22 A I don't remember specifically 23 how we -- how we came up with that. 24 Q Okay. 25 A Excuse me. There is plenty of</p>

24 (Pages 90 to 93)



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<p>1 Daniel Curry 2 academic literature around that. 3 Q That forward rates are not a 4 crystal ball, that part? 5 A Correct. 6 Q And, yet, I think Mr. Hasterok 7 would agreed with me yesterday and maybe 8 you will agree with me, trillions of 9 dollars of transaction are done on the 10 basis of the forward curve, right? 11 A I think you and I are looking 12 at the forward curve differently. The 13 forward curve is resultant as opposed to 14 something that is predictive. 15 Q So the forward curve results 16 from the transactions that people are 17 prepared to do? 18 A Correct. 19 Q And so, therefore, it describes 20 the transactions that people are entering 21 into? 22 A Correct. 23 Q And the forward curve that 24 results from the collection of all of that 25 data as to where people are transacting is</p>	<p>1 Daniel Curry 2 something that isn't one of those points, 3 because there are those two points that you 4 can agree to, you can calculate a forward 5 price or swap that is not on those points. 6 So you are creating the curve 7 to go and create the swaps that are not the 8 "on the run" swaps. And the forwards are 9 what allow you to do that. 10 So it's not predictive of LIBOR 11 resets. It's not anything other than a way 12 to calculate swaps that are not considered 13 "on the run" swaps; or it would be a way to 14 price -- if you are talking about 15 government securities, for example, if you 16 had a -- if you had a ten-year "Govey" -- a 17 ten-year "Govey" that is, you know, trading 18 and you had a 30-year, and there was going 19 to be some new auction of, say, a 15-year, 20 it might be a way to figure out the pricing 21 of the 15-year based on those two 22 transactions. 23 Q It's not just "maybe." I mean, 24 that's how financial professionals use this 25 market data to construct curves and</p>
Page 95	Page 97
<p>1 Daniel Curry 2 used for many purposes in the financial 3 industry, correct? 4 A Correct. What you have are 5 transactions that people will do. You 6 know, for example, if you are doing 7 interest rate swaps, you have what are 8 referred to or known as or colloquially 9 thought of as par points. So those are the 10 liquid markets. 11 So those are usually 2, 3, 5, 12 7, 10, 12, 15 -- you can argue of -- 20s 13 and 30s are the most liquid. So those are 14 the points where if you -- those are the -- 15 those are the swaps, that, if you're 16 looking at a screen that a swap trader 17 might look at and a customer might look at, 18 those are the, for lack of a better term, 19 the "on the run" swaps. 20 Those are the points that 21 everybody is quoting, you know, where they 22 will do a transaction of a certain size. 23 They will usually quote a two-side market, 24 so those are the par points. 25 If you were looking for</p>	<p>1 Daniel Curry 2 interpolate between reported points to 3 figure out what the interim points are, 4 correct? 5 A Correct. And then you -- you 6 know, and then there are some other, you 7 know, technical things that people will do 8 from that because sometimes you see -- and 9 this is highly technical, you know, and I 10 don't know if that is particularly 11 relevant. 12 But you would see places where 13 the curve might be, you know, up or down; 14 and I am talking about basis points, or, 15 you know, very minor amounts. And people 16 will sit there and kind of hit those points 17 to try to get them to go to a smooth point. 18 And that would actually be a trading 19 strategy. And that's where people would 20 use forward curves. 21 Q Right. And were you involved 22 at all in the marking of derivatives 23 positions by Morgan Stanley? 24 A Certain derivative positions. 25 Q Okay. And which derivatives</p>

25 (Pages 94 to 97)



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<p>1 Daniel Curry</p> <p>2 positions were you involved in marking?</p> <p>3 What types?</p> <p>4 A Total return swaps, for</p> <p>5 example, would be something that I was</p> <p>6 very, very involved in. I would have some</p> <p>7 input on the forward purchase book because</p> <p>8 I would be dealing somewhat, you know, with</p> <p>9 the deliverables.</p> <p>10 So to the extent that we could</p> <p>11 do something in that market in terms of</p> <p>12 hedging or whatever there -- but the</p> <p>13 general swap book, no.</p> <p>14 Q The general swap book, was it</p> <p>15 the traders responsible for the positions</p> <p>16 who mark the book?</p> <p>17 A Yes.</p> <p>18 Q And do you know what role, if</p> <p>19 any, forward curves played in the marking</p> <p>20 of books?</p> <p>21 A I think forward curves would be</p> <p>22 used to the extent that you -- let's say</p> <p>23 that you weren't able to perfectly hedge a</p> <p>24 position -- say that the customer paid</p> <p>25 fixed, 11 years, and there was no direct</p>	<p>1 Daniel Curry</p> <p>2 forward rate.</p> <p>3 But in marking derivatives</p> <p>4 positions that may have durations --</p> <p>5 remaining duration of five years, ten</p> <p>6 years, fifteen years, twenty years, traders</p> <p>7 at Morgan Stanley had to take some view on</p> <p>8 the mark date of the value on that date of</p> <p>9 that position, correct?</p> <p>10 A Can you repeat that, please.</p> <p>11 Q Read the question back.</p> <p>12 (Reporter read back pending</p> <p>13 question.)</p> <p>14 A I don't think the traders took</p> <p>15 any view.</p> <p>16 Q What did they do?</p> <p>17 A They would go, and they would</p> <p>18 input rates that are observed in the market</p> <p>19 to recalculate the value of their books.</p> <p>20 Q Okay. And when you are</p> <p>21 inputting rates that are observed to</p> <p>22 recalculate the value of their books, they</p> <p>23 are inputting those rates where, into some</p> <p>24 model?</p> <p>25 A Into models.</p>
Page 99	Page 101
<p>1 Daniel Curry</p> <p>2 hedge that you could do; maybe you had a --</p> <p>3 you might bucket that trade or bracket that</p> <p>4 trade with the trades that you could do,</p> <p>5 which would probably be a combination of</p> <p>6 maybe tens and twelves.</p> <p>7 And you might use an</p> <p>8 interpolated rate to figure out the risk --</p> <p>9 an interpolated rate from a forward curve</p> <p>10 to figure out the risk that you had to a</p> <p>11 particular point because you weren't able</p> <p>12 to perfectly hedge it.</p> <p>13 Q So you would use the forward</p> <p>14 curve in that way.</p> <p>15 A But your -- your two positions</p> <p>16 that bracketed it would move based on the</p> <p>17 underlying swap market, which could go</p> <p>18 in -- you know, and from that you could</p> <p>19 interpolate a forward rate.</p> <p>20 And you could see how that</p> <p>21 particular position that you might have</p> <p>22 might deviate from your position that you</p> <p>23 might have.</p> <p>24 Q Back to all of this, maybe we</p> <p>25 are both being overly technical in the</p>	<p>1 Daniel Curry</p> <p>2 Q And those models are then</p> <p>3 figuring out what the cash flows are going</p> <p>4 to be in the future on those trades and</p> <p>5 then present valuing those cash flows?</p> <p>6 A Correct. But, typically, the</p> <p>7 books were basically matched books so --</p> <p>8 Q Just because they are matched</p> <p>9 books, you are not telling me that they</p> <p>10 don't figure out what those cash flows are,</p> <p>11 right?</p> <p>12 A They do figure out the cash</p> <p>13 flows.</p> <p>14 Q They figure out cash flows for</p> <p>15 both legs of the transaction, correct, the</p> <p>16 hedge as well as the original trade?</p> <p>17 A Correct.</p> <p>18 Q Okay.</p> <p>19 A And they run through various</p> <p>20 scenario models.</p> <p>21 Q And those scenario models have</p> <p>22 Morgan Stanley's or the trader's then</p> <p>23 existing view of what cash flows are going</p> <p>24 to be in the future, correct?</p> <p>25 A No. The scenario models are --</p>

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<p>1 Daniel Curry</p> <p>2 what it's doing is trying to stress the</p> <p>3 model to see where your positions might</p> <p>4 break. But those are not input by the</p> <p>5 traders. Those are, you know, typically</p> <p>6 input by risk management or somebody in</p> <p>7 that type of a role, so to see how your</p> <p>8 book would react to externalities, for</p> <p>9 example.</p> <p>10 Q And just so -- are you still</p> <p>11 describing the marking process? Are you</p> <p>12 describing something other than the marking</p> <p>13 process?</p> <p>14 A It's part of the same process.</p> <p>15 You know, at the end of the day, the trader</p> <p>16 goes and he puts in -- actually, the</p> <p>17 firm -- I don't know if the -- honestly, I</p> <p>18 don't remember if the -- for a swap book, I</p> <p>19 don't know if the trader does it or if it</p> <p>20 was done by the -- I think it was actually</p> <p>21 done both sides.</p> <p>22 I believe the trader -- and so</p> <p>23 the P&amp;L group would both run things</p> <p>24 concurrently to determine the end-of-day</p> <p>25 P&amp;L.</p>	<p>1 Daniel Curry</p> <p>2 rejected in March of 2009 or as of</p> <p>3 March 25, 2009, the principal of the</p> <p>4 reserve fund was in the possession of the</p> <p>5 Washington TSA, correct?</p> <p>6 A That is correct.</p> <p>7 Q And --</p> <p>8 A Or I believe it was invested in</p> <p>9 a money market fund.</p> <p>10 Q Correct. But they had it;</p> <p>11 Lehman didn't have it?</p> <p>12 A I don't think Lehman ever had</p> <p>13 it other than the security delivery dates.</p> <p>14 Q And following the rejection of</p> <p>15 the contract, Washington TSA has had the</p> <p>16 ability to invest that principal of the</p> <p>17 reserve fund in various ways, correct?</p> <p>18 A Correct.</p> <p>19 Q And they have chosen to</p> <p>20 elect -- they have elected to invest it in</p> <p>21 money market funds, correct?</p> <p>22 A That is my understanding.</p> <p>23 Q And they have received advice</p> <p>24 from financial advisors from time to time</p> <p>25 about alternatives to that investment,</p>
Page 103	Page 105
<p>1 Daniel Curry</p> <p>2 Q Well, it's not just the trader</p> <p>3 and the P&amp;L group. You have an independent</p> <p>4 price control group, too; don't you?</p> <p>5 A The back office or the</p> <p>6 operations group feeds them the values.</p> <p>7 Q And, ultimately, it rolls up</p> <p>8 into the SEC filings, correct?</p> <p>9 A Correct.</p> <p>10 Q And people take that kind of</p> <p>11 seriously, right?</p> <p>12 A I'll agree.</p> <p>13 (There was a discussion off the</p> <p>14 record.)</p> <p>15 Q And if you want to know what</p> <p>16 Morgan Stanley's pricing policy is and how</p> <p>17 they price it or its positions, you could</p> <p>18 start by looking at their annual report,</p> <p>19 correct?</p> <p>20 A Correct, I believe so.</p> <p>21 Q You think they would get that</p> <p>22 one right in the annual report?</p> <p>23 A I would hope so.</p> <p>24 Q We would all hope so.</p> <p>25 Now, when the contract was</p>	<p>1 Daniel Curry</p> <p>2 correct?</p> <p>3 A I believe that to be correct.</p> <p>4 Q And the alternatives that they</p> <p>5 were provided were alternatives that would</p> <p>6 have yielded a much higher rate of interest</p> <p>7 and return to the Washington TSA than what</p> <p>8 they have actually earned, correct?</p> <p>9 MR. LAWRENCE: Object to the</p> <p>10 form.</p> <p>11 A I believe so with</p> <p>12 qualifications in that the transactions</p> <p>13 were not exactly what they had with Lehman.</p> <p>14 The transactions, I believe, were very,</p> <p>15 very different.</p> <p>16 Q Well, I am not suggesting they</p> <p>17 were the same as Lehman.</p> <p>18 A Okay.</p> <p>19 Q But they are transactions that</p> <p>20 are very different than what the Washington</p> <p>21 TSA has actually been doing since 2009,</p> <p>22 correct?</p> <p>23 A That is correct.</p> <p>24 Q Okay. And the Washington TSA</p> <p>25 did not enter into any of those other</p>

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<p>1 Daniel Curry</p> <p>2 transactions suggested by the financial</p> <p>3 advisors, correct?</p> <p>4 A That to my understanding is</p> <p>5 correct.</p> <p>6 Q Now, we have seen in discovery</p> <p>7 some of the proposals that were made by</p> <p>8 financial advisors, I believe, in 2011, to</p> <p>9 the Washington TSA; have you seen those?</p> <p>10 A I believe I read -- I believe I</p> <p>11 scanned them.</p> <p>12 Q Did you do any kind of analysis</p> <p>13 to see whether those same types of</p> <p>14 investments that were being suggested by</p> <p>15 the advisors to the Washington TSA could</p> <p>16 have been done in March of 2009?</p> <p>17 MR. LAWRENCE: Object to the</p> <p>18 form.</p> <p>19 A Back in 2009, we did not do</p> <p>20 that analysis to my knowledge. That was</p> <p>21 not something that was being offered,</p> <p>22 particularly to tobacco issuers.</p> <p>23 Q My question was a little</p> <p>24 different.</p> <p>25 Sometime in 2011, various</p>	<p>1 Daniel Curry</p> <p>2 think the risk is very different than the</p> <p>3 risk that they had under the transaction</p> <p>4 that they chose to undertake.</p> <p>5 Q Okay. Whether or not you have</p> <p>6 a different recommendation to make, let's</p> <p>7 just put that aside. I am just trying to</p> <p>8 figure out what you did to analyze these</p> <p>9 proposals that you saw.</p> <p>10 A Okay.</p> <p>11 Q So you did see the 2011</p> <p>12 proposals, correct?</p> <p>13 A I did a summary review of</p> <p>14 those, very summary -- summarily.</p> <p>15 Q And is it your understanding</p> <p>16 that some of those proposals suggested</p> <p>17 investments that the Washington TSA was</p> <p>18 permitted to make under the then existing</p> <p>19 bond indenture?</p> <p>20 MR. LAWRENCE: Object to the</p> <p>21 form.</p> <p>22 A I didn't read it to the extent</p> <p>23 that I looked at all of the provisions in</p> <p>24 what was presented. I don't believe</p> <p>25 anybody presented a contract that they</p>
Page 107	Page 109
<p>1 Daniel Curry</p> <p>2 folks, Swap Financial Group, I think,</p> <p>3 Barclay's, someone else, wrote proposals to</p> <p>4 the Washington TSA that proposed</p> <p>5 investments that Washington TSA could make,</p> <p>6 correct?</p> <p>7 A I don't know if they could make</p> <p>8 them. I don't know if they were allowed to</p> <p>9 make them. I don't know if they adhered to</p> <p>10 the form that investment of reserve funds</p> <p>11 were required to take.</p> <p>12 I know that they proposed</p> <p>13 things that are available potentially in</p> <p>14 the market.</p> <p>15 Q Did you do any analysis of</p> <p>16 those proposals to compare those proposals</p> <p>17 to the bond indenture to see if the</p> <p>18 investments being proposed, in fact,</p> <p>19 qualified under the bond indenture?</p> <p>20 MR. LAWRENCE: Object to the</p> <p>21 form.</p> <p>22 A Based on my reading of the</p> <p>23 documents, there are some things that may</p> <p>24 have been permissible under the bond</p> <p>25 documents. I would dismiss them because I</p>	<p>1 Daniel Curry</p> <p>2 could potentially enter into to see if it</p> <p>3 adhered to those particular provisions of</p> <p>4 the bond document.</p> <p>5 All I saw were indications</p> <p>6 where somebody might enter into a trade</p> <p>7 without a firm understanding of the</p> <p>8 specifics of the specific -- specifics of</p> <p>9 the items that were proposed.</p> <p>10 All I saw were kind of rates</p> <p>11 and the name.</p> <p>12 Q Okay. So you saw the rates.</p> <p>13 You saw the names. Did you do anything --</p> <p>14 the focus of this question really is:</p> <p>15 Did you do something, as an</p> <p>16 expert hired in this case, to say was it</p> <p>17 feasible for the Washington TSA to actually</p> <p>18 enter into those transactions as far as the</p> <p>19 bond indenture is concerned?</p> <p>20 MR. LAWRENCE: Object to the</p> <p>21 form.</p> <p>22 A I did not. We did not. What</p> <p>23 we looked at were how those proposals were</p> <p>24 very different and presented very different</p> <p>25 risks than the risk that they had under the</p>

28 (Pages 106 to 109)

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<p>1 Daniel Curry</p> <p>2 FPA.</p> <p>3 Q I think you have said that a</p> <p>4 trade like the FPA could not be done?</p> <p>5 A I do not believe it can be</p> <p>6 done.</p> <p>7 Q Couldn't be done in March of</p> <p>8 2009 and can't be done today?</p> <p>9 A I don't believe it can be done</p> <p>10 today either.</p> <p>11 Q All right. So when you looked</p> <p>12 at those proposals and the types of</p> <p>13 investments that were proposed in the 2011</p> <p>14 proposals, did you do anything to see</p> <p>15 whether those same types of investments</p> <p>16 could have been made by the Washington TSA</p> <p>17 not in 2011, but in March of 2009?</p> <p>18 MR. LAWRENCE: Objection.</p> <p>19 A Did we do specific work to that</p> <p>20 effect? Did we have a discussion as to</p> <p>21 what dealers were or weren't willing to do</p> <p>22 at that period of time based on our</p> <p>23 remembrance of the events?</p> <p>24 We did have that type of</p> <p>25 discussion. And while the FPA presents --</p>	<p>1 Daniel Curry</p> <p>2 parties that had transactions with Lehman,</p> <p>3 and, I think, just did a very, very summary</p> <p>4 type review of what it is that they have</p> <p>5 done in that period of time.</p> <p>6 I think, for the most part,</p> <p>7 they have been kind of in bills and CPs and</p> <p>8 money market funds. If it was something</p> <p>9 outside of that, it wasn't something that</p> <p>10 we see or something that we remembered --</p> <p>11 or I saw or remembered.</p> <p>12 Q So I want to understand this</p> <p>13 process a little bit more.</p> <p>14 What did you do? How did you</p> <p>15 identify these parties? And then how did</p> <p>16 you figure out what it is that they have</p> <p>17 invested in?</p> <p>18 MR. LAWRENCE: Object to the</p> <p>19 form.</p> <p>20 Q And, finally, where did you</p> <p>21 record all of this stuff?</p> <p>22 MR. LAWRENCE: Further</p> <p>23 objection to the form.</p> <p>24 A I believe where did we record</p> <p>25 it? It's not recorded. If I remember</p>
Page 111	Page 113
<p>1 Daniel Curry</p> <p>2 there's some very unique risks to the FPA</p> <p>3 transaction.</p> <p>4 I can say that Morgan Stanley,</p> <p>5 which is where I worked and where I can</p> <p>6 speak of, would not have done the other</p> <p>7 transactions that were suggested, which, I</p> <p>8 believe, were an uncollateralized</p> <p>9 investment agreement, with a tobacco</p> <p>10 issuer; a repurchase agreement, I believe</p> <p>11 was the other one; and then I believe the</p> <p>12 others were some kind of swap -- swap</p> <p>13 overlay type transactions.</p> <p>14 I don't believe we would have</p> <p>15 done any of those.</p> <p>16 Q As part of your work on this</p> <p>17 matter, did you and Mr. Hasterok undertake</p> <p>18 to document all of the different types of</p> <p>19 replacement transactions, replacement</p> <p>20 investments that have been made by</p> <p>21 counterparties to Lehman following the</p> <p>22 termination of their Lehman tobacco FPAs?</p> <p>23 A I believe we looked at -- we</p> <p>24 did look at -- I can't remember the name</p> <p>25 specifically -- parties that may have -- or</p>	<p>1 Daniel Curry</p> <p>2 correctly, we went through the docket, and</p> <p>3 searched on tobacco; and I can't -- that</p> <p>4 provided a list of names, and I don't</p> <p>5 recall which names.</p> <p>6 And then we would go -- and you</p> <p>7 would -- you could go to "Emma," which is</p> <p>8 the MSRB recording reporting site and look</p> <p>9 up recent disclosure. Sometimes it</p> <p>10 mentioned that they were in dispute with</p> <p>11 Lehman.</p> <p>12 And I believe one or two --</p> <p>13 this was, you know, a bit ago -- but I</p> <p>14 believe one or two said that -- you know,</p> <p>15 the money was basically in money markets or</p> <p>16 bills or something.</p> <p>17 I am not aware of anybody doing</p> <p>18 any type of replacement transaction or</p> <p>19 making any type of long-term investment. I</p> <p>20 think they have all kept things relatively</p> <p>21 short.</p> <p>22 Q Well, you don't know what they</p> <p>23 have actually done. If they haven't put it</p> <p>24 in one of the documents you looked at, you</p> <p>25 don't know what they have done?</p>

29 (Pages 110 to 113)

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<p>1 Daniel Curry</p> <p>2 A That is correct.</p> <p>3 Q And outside of this universe of</p> <p>4 folks, you don't know what dealers have</p> <p>5 done with other tobacco FPAs who may have</p> <p>6 sought replacement investments for their</p> <p>7 reserve funds, right?</p> <p>8 MR. LAWRENCE: Object to the</p> <p>9 form.</p> <p>10 A I'm sorry. I don't understand</p> <p>11 your question.</p> <p>12 Q Well, as I understand your</p> <p>13 process, you started by looking at the</p> <p>14 Lehman docket?</p> <p>15 A Correct.</p> <p>16 Q That's how you identified other</p> <p>17 Lehman tobacco FPAs, correct?</p> <p>18 A Correct.</p> <p>19 Q You looked at their filings.</p> <p>20 And then you went to public sources to see</p> <p>21 what they have been doing?</p> <p>22 A Correct.</p> <p>23 Q So if there is a Lehman FPA</p> <p>24 that has not filed a claim against Lehman,</p> <p>25 you didn't look at them?</p>	<p>1 Daniel Curry</p> <p>2 Q And so, for those that have</p> <p>3 been terminated, you don't know what those</p> <p>4 settlement authorities have done with their</p> <p>5 funds in term of replacements?</p> <p>6 MR. LAWRENCE: Object to the</p> <p>7 form.</p> <p>8 A That is correct.</p> <p>9 Q Okay. And you don't know what</p> <p>10 types of products dealers and non-dealers</p> <p>11 have been offering parties in that</p> <p>12 situation to invest their money, correct?</p> <p>13 A That's not correct.</p> <p>14 Q So what do you know about what</p> <p>15 types of products have been offered by</p> <p>16 dealers and non-dealers to parties that are</p> <p>17 similar -- similarly situated to Washington</p> <p>18 TSA?</p> <p>19 MR. LAWRENCE: Object to the</p> <p>20 form. Are you stipulating there are</p> <p>21 other people similarly situated, so</p> <p>22 you need to now disclose a bunch of</p> <p>23 documents that you haven't disclosed?</p> <p>24 MR. TAMBE: Is that an</p> <p>25 objection to the form?</p>
Page 115	Page 117
<p>1 Daniel Curry</p> <p>2 A Correct.</p> <p>3 Q If there are other tobacco FPAs</p> <p>4 out there who terminated their trades for</p> <p>5 various reasons with other dealers, you</p> <p>6 didn't look at them?</p> <p>7 A No.</p> <p>8 Q And for the Lehman FPAs that</p> <p>9 you identified by looking at the docket, if</p> <p>10 they didn't put it in some other public</p> <p>11 disclosure, you didn't do anything else to</p> <p>12 find out what they have been doing with</p> <p>13 that money?</p> <p>14 A That is correct.</p> <p>15 Q So that takes care of the names</p> <p>16 that you identified by looking at the</p> <p>17 Lehman docket.</p> <p>18 There are tobacco FPAs out</p> <p>19 there that have nothing to do with Lehman,</p> <p>20 correct?</p> <p>21 A That is correct.</p> <p>22 Q And you don't know how many, if</p> <p>23 any, of those have been terminated over the</p> <p>24 past four or five years. Correct?</p> <p>25 A That is correct.</p>	<p>1 Daniel Curry</p> <p>2 MR. LAWRENCE: Well --</p> <p>3 MR. TAMBE: I am not going to</p> <p>4 argue with you. I've got a question</p> <p>5 pending to the witness.</p> <p>6 MR. LAWRENCE: I asked if</p> <p>7 you're stipulating to that.</p> <p>8 MR. TAMBE: I am not</p> <p>9 stipulating anything.</p> <p>10 MR. LAWRENCE: Well, your</p> <p>11 question is assuming something that is</p> <p>12 either accurate or not accurate,</p> <p>13 and --</p> <p>14 MR. TAMBE: The witness will</p> <p>15 tell me, right; if he thinks I've got</p> <p>16 the market wrong, he will tell me, not</p> <p>17 you.</p> <p>18 MR. LAWRENCE: This goes to the</p> <p>19 validity of your objections to</p> <p>20 discovery.</p> <p>21 MR. TAMBE: It goes to the</p> <p>22 validity of this expert's opinion,</p> <p>23 which is baseless. But let's talk</p> <p>24 about the basis for his statement.</p> <p>25 MR. LAWRENCE: Okay. That is</p>

30 (Pages 114 to 117)



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<p>1 Daniel Curry 2 really uncalled for. 3 MR. TAMBE: All right. The 4 record will speak for itself. So 5 let's go back to the question. 6 MR. LAWRENCE: Calling the 7 witness names is something that you 8 routinely do. 9 MR. TAMBE: No, it's actually 10 the report that I have a problem with. 11 I think the report is entirely 12 baseless. I have great respect for 13 the witness himself. 14 Q What I believe you said was you 15 are familiar with the types of products 16 that have been offered by dealers and 17 non-dealers to parties that are similarly 18 situated to Washington TSA, in that they 19 had some type of a long-term reserve 20 funding agreement, they no longer have that 21 agreement, and need to invest their money 22 in some way, whether they are related to 23 Lehman or not? 24 A My understanding, again, is 25 that the other dealers are not offering a</p>	<p>1 Daniel Curry 2 bond? 3 A If it's permitted under the 4 indenture, you know, whatever rating 5 criteria, that type of thing. 6 Q So the only options that out 7 there are not CDs and money market funds. 8 There may well be other options. You just 9 don't know what all of those other options 10 are? 11 MR. LAWRENCE: Object to the 12 form. 13 A That is correct. 14 Q Page 19 of your report, 15 Exhibit 30, you have a valuation matrix on 16 page 19? 17 A Yes. 18 Q And you state in your first 19 sentence under the title "Valuation 20 Matrix": 21 "Once a given replacement yield 22 is chosen, we assume that TSA would earn 23 the replacement yield from the early 24 termination date 25 March 2009 to the 25 maturity date in question."</p>
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<p>1 Daniel Curry 2 product. So I have had conversations with 3 people at other firms, and, to my 4 knowledge, and based on conversations that 5 I have had with other market participants, 6 it's not a space where they offer product. 7 Q Okay. No product, no 8 transactions? 9 A No investment transactions. 10 And I will say that I don't speak to 11 everybody in the market. But the people 12 that I have spoken to, it's not something 13 that they have offered. 14 Q And is that answer limited to 15 dealers, or is it limited to -- or does it 16 extend to all other participants? 17 A It's limited to dealers. 18 Q Because you do understand that 19 there are insurance companies, non-dealer 20 participants, who might offer investment 21 products, understand? 22 A Sure, yep. I do not speak to 23 those people. 24 Q And, arguably, that is a way of 25 investing funds if it's permitted by your</p>	<p>1 Daniel Curry 2 Do you see that? 3 A I do. 4 Q So what are all of the bases 5 for that assumption? 6 A You know, the issue there is we 7 couldn't assume some sort of higher rate 8 because it would have assumed that they had 9 to enter into a transaction, so some sort 10 of, you know, hedging transaction. 11 They would have had to enter 12 into a replacement contract to get some 13 yield higher than effectively spot rates or 14 spot rates in effect as of, I believe, the 15 9th -- or March '09. 16 Q I am just trying to understand 17 what it is that you have done. 18 Have you given me all the 19 bases? Are there any other bases other 20 than what you just said? 21 A I believe that's it. 22 Q Are you assuming that the TSA 23 every six months would earn the replacement 24 yield and nothing more and nothing less 25 than the replacement yield all the way out</p>



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<p>1 Daniel Curry 2 to 2032? 3 A That's what we assumed. 4 Q Okay. What is your assumption 5 about what CD rates are going to be two 6 years from now? 7 A I don't have a view. 8 Q When you wrote this report, did 9 you have a view? 10 A No. 11 Q What are CD rates going to be 12 20 years from now? 13 MR. LAWRENCE: Object to the 14 form. 15 A I couldn't tell you. 16 Q What -- how about same thing 17 for commercial paper? 18 A I don't know. 19 Q So in terms of what the TSA 20 would earn on consecutive six-month 21 intervals all the way out to 2032, you 22 don't have a view? 23 A I don't. 24 Q But if I understand your report 25 correctly, you would like the court to</p>	<p>1 Daniel Curry 2 had before administratively, they really 3 didn't need to do anything. Lehman took 4 that -- did that on their behalf, all the 5 deliveries. And there was nothing for them 6 to do. And they have kind of a similar 7 situation through the money market fund. 8 So they are not running the 9 risk that the money market fund remains 10 uninvested. They are not having to go out 11 and buy specific securities. They are not 12 having to go out and monitor the specific 13 securities. 14 So from the point of view of 15 what they were doing prior to Lehman going 16 under, that's probably the most comparable 17 level of responsibility and action to what 18 they had prior. 19 Q But as of March 25, 2009, had 20 they locked in a 65 basis rate, basis point 21 rate for the next 23 years? 22 A No, they hadn't. 23 Q So, presumably, every six 24 months, they get a different rate, either 25 in their money market fund or if they</p>
Page 123	Page 125
<p>1 Daniel Curry 2 assume that the TSA will earn no more and 3 no less than the yield set forth in your 4 grid? 5 MR. LAWRENCE: Object to the 6 form. 7 A I think in order to create a 8 value you have to make an assumption. If 9 you are PV'ing something back, you need a 10 number. And you need a number that you 11 believe they could actually earn or a 12 transaction they could actually undertake. 13 And the transactions that they 14 could actually undertake or whatever are 15 potentially buying CPs, investing in money 16 market funds, potentially investing in CDs. 17 Q And as between the various 18 things that you believe they could do, you 19 picked one as your -- as your opinion of 20 the value, correct? 21 A Correct. 22 Q Okay. And how is it that you 23 settled on that particular line item as 24 opposed to the several others? 25 A If you think about what they</p>	<p>1 Daniel Curry 2 choose to invest in CDs or other eligible 3 securities, they get whatever that then 4 prevailing rate is? 5 A Correct. 6 Q So for purposes of the 7 valuation report and the claims submitted 8 in bankruptcy court, you would want the 9 court to assume they're locked into a 10 65-basis point rate, when, in reality, they 11 can enjoy whatever returns they get, either 12 now or ten years from now, fifteen years 13 from now, up to 23 years from the rejection 14 date, correct? 15 MR. LAWRENCE: Object to the 16 form. 17 A They are going to be earning 18 whatever it is that they can get in the 19 market. And since March 29th, they have 20 been substantially less than the 65 basis 21 points that they put a claim in for. And 22 that's the risk that you have with this 23 type of modeling. 24 Q And you have no view of 25 whether -- starting today, for the next</p>

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<p>1 Daniel Curry 2 15 years on average, what they would expect 3 to earn on any of these investments? 4 MR. LAWRENCE: Object to the 5 form of the question. 6 A Unless I could lock something 7 in in a transaction, I don't have a view. 8 THE WITNESS: Can we take a 9 break. 10 MR. TAMBE: Sure, we can take a 11 lunch break now if you like. 12 (A lunch recess was taken.) 13 CONTINUED DIRECT EXAMINATION 14 BY MR. TAMBE: 15 Q On page 12 of your report, 16 Exhibit 30, under the section under 17 "Replacement Yields," you note that you 18 have: 19 "... limited the scope of 20 potential replacement investment strategies 21 to those permitted and subject to 22 limitations in the indenture." 23 Do you see that? 24 A Um-hum. 25 MR. LAWRENCE: You have to</p>	<p>1 Daniel Curry 2 the bond indenture to be able to invest in 3 additional investments? 4 A We did not. 5 Q The bond indenture that you are 6 referring to is the indenture that was 7 entered into in 2002, correct? 8 A That is correct. 9 Q Under different market 10 conditions? 11 A That is correct. 12 Q And you certainly agree that 13 the circumstances in 2009 were very 14 different than those that existed in 2002? 15 A That is correct. Yes. 16 Q In your dealings in the 17 municipal sector, have you seen occasions 18 where bond indentures have been amended 19 from time to time? 20 MR. LAWRENCE: Object to the 21 form. Go ahead. 22 A Yes, I have amended them 23 myself. 24 Q Are you aware of any 25 considerations or discussions within the</p>
Page 127	Page 129
<p>1 Daniel Curry 2 answer yes or no. 3 A I'm sorry. Just -- 4 Q It's right above the quotation: 5 "For purposes of the report, we 6 have limited the scope of potential 7 replacement investment strategies to those 8 that are permitted and subject to the 9 limitations of the indenture." 10 A I see that, yes. 11 Q Okay. Did you have any -- did 12 you do any analysis to see under what 13 circumstances the Washington TSA would be 14 able to enter into replacement investments 15 that were outside the scope of the 16 limitations in the indenture? 17 MR. LAWRENCE: I am sorry. 18 Just repeat that question. 19 (Reporter read back pending 20 question.) 21 A I don't see why we would have 22 if they weren't able to do so. So, no. 23 Q Did you do any analysis or 24 conduct any inquiries into whether and to 25 what extent the Washington TSA could amend</p>	<p>1 Daniel Curry 2 Washington TSA after September of 2008 to 3 seek to amend the 2002 bond indenture? 4 A I am not aware of anything. To 5 that effect, based on my experience, it's a 6 very difficult thing to do. 7 Q We talked this morning about 8 Swap Financial Group and Mr. Shapiro and 9 the analysis that he had done. Do you 10 remember that? 11 A Yes. 12 Q Are you aware, sir, that PFM, 13 another financial advisor to Washington 14 TSA, also did some valuations of the RFA at 15 issue? 16 MR. LAWRENCE: Object to the 17 form. 18 A Yes. I saw that in some of the 19 documents that we had looked at. 20 Q And did you review any PFM 21 analyses of valuation? 22 A Did I evaluate them? I'm 23 sorry. 24 Q Did you review them? 25 A I did a summary review of some</p>

33 (Pages 126 to 129)

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<p>1 Daniel Curry 2 of those documents. 3 Q And do you have a view as to 4 the methodology used by PFM to value the 5 RFA? 6 MR. LAWRENCE: Object to the 7 form -- sorry. Objection to the form. 8 A I don't know what methodology 9 they used. 10 Q Did you ask to speak with PFM? 11 A I did not. 12 Q Have you dealt with PFM in your 13 past 20 years? 14 A I have. 15 Q Are they one of the largest 16 financial advisors for municipal issuers? 17 A Probably number one or number 18 two. 19 Q And how about Swap Financial 20 Group? Had you dealt with them prior to 21 any involvement you had with them in this 22 matter? 23 A I definitely had conversations. 24 I have likely done transactions with them, 25 nothing in many years though. I have known</p>	<p>1 Daniel Curry 2 "In addition, historical 3 average returns are very sensitive to the 4 time period chosen." 5 And you go on to say: 6 "For example, the average yield 7 for the past year may be materially 8 different than the average yield for the 9 past three years." 10 Do you see that? 11 A I see that. 12 Q What did you do in your 13 analysis to account for that sensitivity? 14 A To a certain extent, we ignored 15 it by using the yields that they actually 16 received from the time that Lehman 17 defaulted on its delivery through where 18 they actually invested themselves. 19 And this was, you know, largely 20 due to the fact that, you know, at that 21 point the government was rapidly ratcheting 22 down short-term rates. 23 So if you had looked 24 historically, you would be looking at rates 25 that were effectively unachievable.</p>
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<p>1 Daniel Curry 2 Peter for a number of years. 3 Q How have you known Peter? 4 A At TMG, he was a -- he was at a 5 former firm Euro Brokers; and we did some 6 transactions with him while he was at Euro 7 Brokers. And I believe that was the point 8 more or less where he started Swap 9 Financial. 10 So at TMG I believe we had 11 done, you know, some number of trades; or 12 he was somebody that we regularly spoke to. 13 When I was at Morgan Stanley, he would 14 typically deal more with the marketers. 15 But, occasionally, I would pick up the 16 phone or I would be working on a 17 transaction where he may have been 18 involved. 19 Q On page 15 of your report, you 20 make a statement that I want to discuss 21 with you. At the top of the page, the 22 second full paragraph that begins, "In 23 addition" -- do you see that? 24 A Yes. 25 Q The -- that sentence reads:</p>	<p>1 Daniel Curry 2 Q And did you form a view, as of 3 March of 2009, whether the government would 4 indefinitely keep ratcheting down 5 short-term interest rates? 6 A Did I form a view or was there 7 a market view or -- 8 Q No. Did you form a view? 9 A I did not form a view. 10 Q And would it be a reasonable 11 view to have that the government will 12 indefinitely keep ratcheting down 13 short-term rates? 14 A I think, kind of given the 15 turmoil at the time, people's view was that 16 rates would be very, very low for some 17 extended period of time until things 18 recovered. 19 And that seems to be what has 20 been the case from that period to today. 21 And that's basically what the government 22 has been or the Fed has been telling 23 people. 24 So I think that view has kind 25 of been supported by the actual results</p>

34 (Pages 130 to 133)

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<p>1 Daniel Curry</p> <p>2 since that period of time.</p> <p>3 Q When you say the view of the</p> <p>4 people at the time, where in your report do</p> <p>5 you identify what the view of the people at</p> <p>6 the time, March 25, 2009, was as to rates,</p> <p>7 short-term rates in the future?</p> <p>8 A We didn't.</p> <p>9 Q Back on page 15, the paragraph</p> <p>10 right above the one we were looking at, it</p> <p>11 begins, "Past performance is no guarantee</p> <p>12 of future results."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q The third sentence in that</p> <p>16 paragraph, you state:</p> <p>17 "Any calculation based on using</p> <p>18 historical averages or past reinvestment</p> <p>19 history should not assume that the yield in</p> <p>20 question is guaranteed and will be actually</p> <p>21 obtained by TSA in the future with</p> <p>22 100 percent certainty."</p> <p>23 Do you see that?</p> <p>24 A I do.</p> <p>25 Q Do you, as you sit here today,</p>	<p>1 Daniel Curry</p> <p>2 accuracy. And then we support that by</p> <p>3 showing what they have actually received,</p> <p>4 which is much less than the 65 basis</p> <p>5 points; so we do qualify it.</p> <p>6 Q So both historical averages,</p> <p>7 past reinvestment history, in your view</p> <p>8 should not support an assumption that the</p> <p>9 rate is guaranteed or will actually be</p> <p>10 obtained by the TSA, correct?</p> <p>11 MR. LAWRENCE: Object to the</p> <p>12 form.</p> <p>13 A That is correct.</p> <p>14 Q There is a discussion in your</p> <p>15 report about the expected maturity of the</p> <p>16 tobacco bonds issued by the Washington TSA.</p> <p>17 And it's a discussion that begins on</p> <p>18 page eight of your report. I believe it</p> <p>19 concludes on page 12.</p> <p>20 A Okay.</p> <p>21 Q Do you have an opinion as to</p> <p>22 the expected maturity of the bonds, or did</p> <p>23 you, when you prepared this report, have a</p> <p>24 view as to the expected maturity of the</p> <p>25 bonds?</p>
Page 135	Page 137
<p>1 Daniel Curry</p> <p>2 agree with that statement you made in your</p> <p>3 expert report, dated December 16, 2013?</p> <p>4 A Yes, because I believe what we</p> <p>5 assumed was about 0.65. And that has not</p> <p>6 been the rate that they've been able to</p> <p>7 achieve since that point so --</p> <p>8 Q And in the future they may</p> <p>9 achieve something higher than that rate or</p> <p>10 something lower than that rate, right?</p> <p>11 A That's correct.</p> <p>12 Q And you make no -- you express</p> <p>13 no view as to what that is?</p> <p>14 A We do not have a view on that.</p> <p>15 Q Is it fair to say that the rate</p> <p>16 that you do use, the 65 basis points -- is</p> <p>17 it fair to say that the court should not</p> <p>18 assume that the 65-basis point rate is</p> <p>19 guaranteed or will be actually obtained by</p> <p>20 the TSA in the future with 100 percent</p> <p>21 certainty?</p> <p>22 MR. LAWRENCE: Object to the</p> <p>23 form.</p> <p>24 A We say here that it won't be</p> <p>25 necessarily achieved with 100 percent</p>	<p>1 Daniel Curry</p> <p>2 A Our view was that they would be</p> <p>3 substantially longer than they were</p> <p>4 originally contemplated to be, and our view</p> <p>5 was that there was -- that there is</p> <p>6 uncertainty in the market, which could lead</p> <p>7 to further extensions of the maturity of</p> <p>8 these bonds.</p> <p>9 Q The analysis that you did on</p> <p>10 page 11 of your report, the graphic that</p> <p>11 appears on page 11, the chart, in a number</p> <p>12 of your observations that you used to</p> <p>13 calculate the future productions, a number</p> <p>14 of those observations were post-March 2009</p> <p>15 observations, correct?</p> <p>16 A Correct.</p> <p>17 Q And the only two observations</p> <p>18 you cite that are pre-March 2009 are the</p> <p>19 observations from October of 2002 and June</p> <p>20 of 2006; is that right?</p> <p>21 MR. LAWRENCE: Object to the</p> <p>22 form.</p> <p>23 A Well, those are the data points</p> <p>24 that we used. Those are based on</p> <p>25 presentations that were prepared by TSA's</p>

35 (Pages 134 to 137)

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<p>1 Daniel Curry</p> <p>2 bankers. But those weren't the only</p> <p>3 factors that were present in the</p> <p>4 marketplace.</p> <p>5 The marketplace wasn't relying</p> <p>6 on a presentation that was given to the</p> <p>7 TSA. The market, you know, was basically</p> <p>8 informed by where bonds were trading and</p> <p>9 other discussions around tobacco-related</p> <p>10 bonds because tobacco-related bonds are a</p> <p>11 fairly large investment type in that</p> <p>12 particular market.</p> <p>13 So there is a lot of discussion</p> <p>14 among market participants about those</p> <p>15 particular types of bonds and the things</p> <p>16 that would potentially affect the payment</p> <p>17 of those types of bonds.</p> <p>18 So things like -- there was</p> <p>19 a -- I believe, it's the Children's</p> <p>20 Insurance Tax -- I don't remember the exact</p> <p>21 name -- the State Children's Health</p> <p>22 Insurance Program that was put in place, I</p> <p>23 believe, prior to March 9th, that people</p> <p>24 believed would have a very negative impact</p> <p>25 on the bonds or bonds of this type.</p>	<p>1 Daniel Curry</p> <p>2 market.</p> <p>3 Q And I believe my question was:</p> <p>4 Did you see that type of</p> <p>5 analysis done specifically for the</p> <p>6 Washington TSA bonds?</p> <p>7 A I believe -- what I saw were a</p> <p>8 couple of memos which I believe were</p> <p>9 prepared by Bear Stearns and potentially</p> <p>10 Lehman and Barclay's looking at projected</p> <p>11 dates.</p> <p>12 Q Did you believe these to be</p> <p>13 pre-March 2009 analyses?</p> <p>14 A I believe there may have been</p> <p>15 one or two after.</p> <p>16 Q Well, do you believe there are</p> <p>17 one or two before?</p> <p>18 A I believe there were one or two</p> <p>19 before. I can't say with certainty how</p> <p>20 many there were or the exact dates.</p> <p>21 Q And the one or two that you</p> <p>22 believe that were before are documents that</p> <p>23 you have seen in connection with this case?</p> <p>24 A I believe that was part of the</p> <p>25 discovery, yes.</p>
Page 139	Page 141
<p>1 Daniel Curry</p> <p>2 Q Did you see any analysis</p> <p>3 conducted by Washington TSA itself before</p> <p>4 March of 2009 through which they updated</p> <p>5 their turbo redemption date?</p> <p>6 A I don't know that they ever did</p> <p>7 their own analysis.</p> <p>8 Q Did you see that type of</p> <p>9 analysis done for the Washington TSA prior</p> <p>10 to March of 2009?</p> <p>11 A I believe there was updated</p> <p>12 analysis based on the DRI projections,</p> <p>13 their base case projections, which I</p> <p>14 believe gave scenarios of "better than</p> <p>15 expected," "worse than expected," as</p> <p>16 compared to DRI.</p> <p>17 I believe they go and they</p> <p>18 present a bunch of different scenarios; and</p> <p>19 from those scenarios, you can project what</p> <p>20 the payments would be.</p> <p>21 But those are by no means</p> <p>22 certain because those are their projections</p> <p>23 based on where they believe tobacco</p> <p>24 consumption would be, based on whatever the</p> <p>25 present consumption trends are in the</p>	<p>1 Daniel Curry</p> <p>2 Q This is not something you are</p> <p>3 remembering from an independent analysis</p> <p>4 that you did?</p> <p>5 A No.</p> <p>6 Q And so, as we go through the</p> <p>7 documents that have been produced in this</p> <p>8 case and there aren't one or two that are</p> <p>9 pre-March 2009, perhaps you were mistaken</p> <p>10 about the date?</p> <p>11 A That would be correct.</p> <p>12 Q You signed an engagement letter</p> <p>13 with the Washington TSA, right?</p> <p>14 A I believe our engagement letter</p> <p>15 was directly with Pacifica.</p> <p>16 Q With Pacifica. Let's mark this</p> <p>17 as an exhibit, please.</p> <p>18 (Exhibit No. Lehman 38, Expert</p> <p>19 Consulting Agreement with Pacifica, is</p> <p>20 marked by the reporter for</p> <p>21 identification.)</p> <p>22 MR. TAMBE: 38.</p> <p>23 Q I hand you a document marked</p> <p>24 Lehman Exhibit 38. Is this your consulting</p> <p>25 agreement, expert witness and litigation</p>

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<p>1 Daniel Curry</p> <p>2 support consulting agreement with the</p> <p>3 Pacifica Group?</p> <p>4 A This one doesn't have my</p> <p>5 signature, but I am going to assume that it</p> <p>6 is.</p> <p>7 Q Have you submitted any invoices</p> <p>8 to Pacifica Group for your work on this</p> <p>9 matter?</p> <p>10 A I have not as of yet.</p> <p>11 Q Do you know, as of today, what</p> <p>12 your incurred charges are?</p> <p>13 A Probably close to 30 -- 35,000,</p> <p>14 I would think.</p> <p>15 Q The total number or the --</p> <p>16 A That would be my number.</p> <p>17 Q Do you know what Mr. Hasterok's</p> <p>18 number is?</p> <p>19 A I would expect it to be</p> <p>20 something similar.</p> <p>21 Q And have you been keeping track</p> <p>22 of your time expended on this matter with</p> <p>23 time records?</p> <p>24 A Yes, a little spreadsheet.</p> <p>25 Q And in the spreadsheet, do you</p>	<p>1 Daniel Curry</p> <p>2 document, is it fair to say that you are</p> <p>3 comfortable with the accuracy of the</p> <p>4 document in its entirety?</p> <p>5 A I wouldn't have signed it if I</p> <p>6 wasn't.</p> <p>7 Q And from the time you signed it</p> <p>8 until today, have you reviewed the</p> <p>9 document?</p> <p>10 A I reread it.</p> <p>11 Q Okay. Any changes that you</p> <p>12 would make to it?</p> <p>13 A The only change is I think,</p> <p>14 when we were talking about the quote, I</p> <p>15 think we would have parsed that statement a</p> <p>16 little bit better.</p> <p>17 Q Any other changes?</p> <p>18 A Not that come to mind.</p> <p>19 Q Is there any other analysis</p> <p>20 that you have been asked to do that is</p> <p>21 currently underway?</p> <p>22 A For this particular case?</p> <p>23 Q For this case.</p> <p>24 A No.</p> <p>25 Q There are spreadsheets that tie</p>
Page 143	Page 145
<p>1 Daniel Curry</p> <p>2 detail how much time you spent, but also</p> <p>3 what you did during that time?</p> <p>4 A Yes. When it came to the</p> <p>5 report, at some point we had a cap on the</p> <p>6 fee for preparing the report. And I did</p> <p>7 not keep time beyond where we would have</p> <p>8 hit the cap.</p> <p>9 Q Who wrote the report?</p> <p>10 A We wrote it jointly.</p> <p>11 Q You wrote it jointly sitting</p> <p>12 next to each other?</p> <p>13 A No, we had a document that we</p> <p>14 had up on -- I believe it was Google Docs;</p> <p>15 so I would -- he would work on a section.</p> <p>16 I would work on a section. And then you</p> <p>17 have the ability to both be working on it</p> <p>18 at the same time.</p> <p>19 So there were things that he</p> <p>20 spent more time on, and there were things</p> <p>21 that I spent more time on.</p> <p>22 Q Okay.</p> <p>23 A But sometimes the work was</p> <p>24 concurrent, and sometimes it was not.</p> <p>25 Q Okay. As a signatory to the</p>	<p>1 Daniel Curry</p> <p>2 in to some of the quantitative aspects of</p> <p>3 your report that we discussed with</p> <p>4 Mr. Hasterok yesterday. Did you prepare</p> <p>5 those spreadsheets?</p> <p>6 A No.</p> <p>7 Q That was his responsibility?</p> <p>8 A Yes.</p> <p>9 Q You have obviously received the</p> <p>10 output of those spreadsheets, but have you</p> <p>11 spent any time studying those spreadsheets?</p> <p>12 MR. LAWRENCE: Object to the</p> <p>13 form.</p> <p>14 A Did I go through them line by</p> <p>15 line? I did not.</p> <p>16 Q In terms of the methodology in</p> <p>17 constructing the spreadsheets and the</p> <p>18 formulas, did you play any role in that?</p> <p>19 A We had discussed it, but he did</p> <p>20 all of the programming and such.</p> <p>21 Q If you were calculating the</p> <p>22 value of this rejected contract, the</p> <p>23 Washington TSA contract, from the</p> <p>24 perspective of a dealer, would you have</p> <p>25 used a different methodology?</p>

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<p>1 Daniel Curry</p> <p>2 MR. LAWRENCE: Object to the</p> <p>3 form.</p> <p>4 A Are you talking about a dealer</p> <p>5 who had the transaction when the trade was</p> <p>6 terminating?</p> <p>7 Q Sure.</p> <p>8 A If you're talking about a</p> <p>9 dealer who had the transaction and the</p> <p>10 trade was terminating, I would have looked</p> <p>11 at it differently because I had hedges that</p> <p>12 I would have to take off.</p> <p>13 So that is -- I have the trade,</p> <p>14 and, now, I'm taking the trade off of my</p> <p>15 boxes, as opposed to putting risk on my</p> <p>16 books. So I would look at it differently.</p> <p>17 Q And let's try the other</p> <p>18 scenario from the perspective of a trader</p> <p>19 who did not have this trade on, who was</p> <p>20 just coming upon this trade cold, and was</p> <p>21 asked to value a terminated transaction.</p> <p>22 A Again, you would have to -- you</p> <p>23 would have to look at the side of the</p> <p>24 transaction.</p> <p>25 Are you talking about a trader</p>	<p>1</p> <p>2 J U R A T</p> <p>3</p> <p>4 I DO HEREBY CERTIFY that I have</p> <p>5 read the foregoing transcript of my</p> <p>6 deposition testimony.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 SWORN TO AND SUBSCRIBED</p> <p>12 BEFORE ME THIS</p> <p>13 DAY OF 2014</p> <p>14 -----</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 Daniel Curry</p> <p>2 who is looking at this trade from the</p> <p>3 perspective of the client's trying to talk</p> <p>4 the trade off and the dealer has hedges in</p> <p>5 place.</p> <p>6 That I would look at very</p> <p>7 similarly to putting on a new transaction.</p> <p>8 I would look at it in terms of breaking</p> <p>9 swaps and taking off hedges and things like</p> <p>10 that.</p> <p>11 If you're talking about doing</p> <p>12 it as a new trade, I mean, the reality was</p> <p>13 that we wouldn't have been able to do a new</p> <p>14 trade.</p> <p>15 So I don't -- I wouldn't have</p> <p>16 valued it the same way.</p> <p>17 MR. TAMBE: All right. Let's</p> <p>18 take a short break. I will review the</p> <p>19 notes, and we may be close to done.</p> <p>20 MR. LAWRENCE: Great.</p> <p>21 (A break is taken.)</p> <p>22 MR. TAMBE: We have no further</p> <p>23 questions.</p> <p>24 MR. LAWRENCE: I have nothing.</p> <p>25 (Deposition adjourned, 1:50 p.m.)</p>	<p>1</p> <p>2 I N D E X</p> <p>3</p> <p>4</p> <p>5 WITNESS DIRECT CROSS</p> <p>6</p> <p>7</p> <p>8</p> <p>9 DANIEL CURRY</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 BY MR. TAMBE 3</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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Lehman 30, Expert Report	

Previously Marked Exhibit No.	47
Lehman 32, Report of Mr. Shapiro	

Exhibit No. Lehman 38, Expert	141
Consulting Agreement with Pacifica	

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CERTIFICATE

I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination DANIEL CURRY was sworn by the notary public to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Notary Public

My Commission expires February 9, 2014  
Dated: January 23, 2014

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